

Provision of Maintenance for Former Wives of Civil Servants According to Government Regulation No. 45 of 1990

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ABSTRACT

Government Regulation of the Republic of Indonesia Number 45 of 1990, civil servants who have divorced are obliged to provide maintenance to the former wife after the divorce. The primary purpose of this research is to analyze the provisions for providing maintenance to former civil servant wives in Government Regulation number 45 of 1990 and KHI, to find out the responsibility of a civil servant husband when a divorce occurs according to Indonesian positive law, to find out the analysis of legal decisions on the provision of maintenance for former civil servant wives according to Government Regulation Number 45 of 1990 in decision 27/Pdt.G/2022/PA.Tte. The method used in this study is normative juridical research using secondary data taken from primary, secondary, and tertiary legal materials. The results of this study explain that there are several factors for providing maintenance to former civil servant wives, according to PP 45 of 1990. Providing maintenance to the ex-wife of a civil servant has good legal consequences for the position of a wife and civil servant. Regarding legal considerations, the judge in Decision Number 27/Pdt.G/2022/Pa.Tte has been based on and by Indonesian favorable legal regulations.

Keywords: support, divorce, civil servants, government regulation number 45 of 1990

INTRODUCTION

Marriage in Islam is the act of making a contract or agreement to bind oneself between a man and a woman, which aims to legalize physical and emotional relationships between the two, creating happiness in family life (Yusrin et al., 2023). Marriage is also interpreted as a sacred promise to live together in the status of husband and wife to fulfill religious instructions and follow the sunnah of the Prophet to establish a harmonious, prosperous, and happy family (Riza, 2022). The primary purpose of this marriage is to form a happy and lasting family or household, which is based on the principle of the One Godhead (Soetarti). Law No. 1 of 1974 and the view of Islamic law emphasize that marriage is not only seen in terms of formalities but also considered in terms of religion and society (Soetarti, 2021).

From a juridical perspective, the purpose of marriage recognized by Law Number 1 of 1974 is ideal. This provision views marriage as a formal covenant bond and an inner bond between married couples to create happiness and permanence. Marriage registration at the Office of Religious Affairs (KUA) and civil records show that marriage is not only a personal agreement between two individuals but also involves legal and administrative aspects that must be heeded (Muhammad, 2022).

There are two forms of divorce; the first is "divorce talk," where a divorce application is filed by the husband and on his initiative to the Religious Court (Yusrin et

al., 2023). The second is a "divorce lawsuit," where the wife files a divorce lawsuit with the Religious Court, and this divorce is considered to have occurred and is valid since the fall of the Religious Court's decision, which has permanent legal force (Azizah, 2022). According to Religious Law other than Islam, divorce has also been regulated in Law Number 1 of 1974 and described in Articles 20 to 34 paragraph (2) of Government Regulation 9 of 1975. In this case, the husband or wife can file a divorce lawsuit to the District Court, and the divorce is considered to have occurred with all its legal consequences since its registration on the registration list by the Registrar at the Civil Registry Office (Junaidi, 2022).

The provisions regarding divorce and its impact on married couples who do not have the status of Civil Servants are regulated in detail in Chapter VIII of Law Number 1 of 1974. As explained, a Civil Servant is an individual who, after fulfilling the conditions set out in the applicable laws and regulations, is appointed by an authorized official and given duties in a state position or other State duties by the applicable laws and regulations and receives a salary by the applicable laws and regulations (Law Number 5 of 2014 concerning the State Civil Apparatus, Article 1 number 3). A male civil servant who divorces his wife must hand over part of his salary to his ex-wife as a living expense until his ex-wife remarries (Sobhan et al., 2022).

As state apparatus, a servant of the state, and a servant of the community, Civil Servants (PNS) play a central role in providing a positive example to the community (Muhammad, 2023). The provisions contained in these regulations are not only different, especially when compared to Islamic law and favorable laws in Indonesia that regulate marriage through the Marriage Law (Nurhadi, 2022). The importance of specialization in this regulation can be explained by the fact that civil servants and officials are elements of the state civil apparatus and public servants with significant responsibilities (Syarif, 2022).

The specialization of laws and regulations for civil servants and officials has a clear goal: to organize an efficient Personnel Information system. This effort aims to improve and enforce discipline among civil servants and provide legal certainty and a sense of justice in managing marriage, divorce, and changes in the family structure of civil servants (Budiono, 2022). Civil servants and officials are expected to report every event of marriage, divorce, or family change by established procedures (Agustiawan, 2022).

According to Government Regulation of the Republic of Indonesia Number 45 of 1990, divorced civil servants must provide maintenance to their ex-wives, considering their financial condition and reasonable needs (Government Regulation No. 45 of 1990). The amount of alimony is determined based on the principles of justice and balance and refers to the standard of living usually enjoyed during marriage. This aims to ensure that ex-wives' rights are guaranteed and their needs appropriately met (Harahap, 2022).

This study emphasizes the urgency of alimony for the ex-wife of civil servant husbands in Indonesia's legal and social context, especially by Government Regulation No. 45 of 1990. This regulation stipulates the bonds of marriage and divorce, including the right to alimony for ex-wives after divorce. In the Legal Protection for Ex-Wives of Civil Servant Husbands, Government Regulation No. 45 of 1990 regulates the protection of the rights of wives, including the right to earn post-divorce maintenance.

In the judge's consideration, from the divorce case, the judge saw that the Defendant had committed an affair and left the Plaintiff and his child. The defendant is a civil servant and has a sufficient income. Considering the legal facts that there is justice and the needs of Plaintiff, Defendant must pay iddah maintenance. So far, Plaintiff has served as a wife for 15 years without any betrayal in marriage and has provided innate happiness to

Defendant. Based on the above background, it is necessary to analyze and assess "Provision of Maintenance for Former Wives of Civil Servants According to Government Regulation No. 45 of 1990 (Case Study of the Decision of the Ternate Religious Court Number 27/Pdt.G/2022/Pa.Tte)"

METHOD

Methods are a scientific process that uses specific approaches, procedures, and thinking to investigate certain legal phenomena through analysis (Mertokusumo, 2022). This study uses normative or normative juridical legal research methods, which analyze literature materials and secondary data. This research analyzes legal documents, literature, and other secondary data. This descriptive research provides a comprehensive picture of the prevailing legal situation in a region or legal phenomena in society (Rahardjo, 2022).

This legal research uses a legislative and a *case approach*. In processing data obtained from literature and document studies, it adopts a qualitative analysis approach that aims to understand and construct reality and its meaning to identify the meaning of legal norms that are relevant and useful in solving the legal problems that are the focus of the research.

RESULTS AND DISCUSSION

Provisions for Providing Maintenance in Government Regulation Number 45 of 1990 and Khi

Article 149(b) of the Compilation of Islamic Law (KHI) in Indonesia regulates the obligations of husbands after divorce, primarily related to alimony, maskan (residence), and kishwah (clothing), especially in the case of *talaq raj'i* and *talaq ba'in* (Wahid, 2021). Because in *talaq raj'i*, the husband still has the right to return to his wife, the wife is still responsible during the iddah period. Iddah maintenance is an obligation that the husband must fulfill to his wife during the iddah period after divorce or after the husband's death. *Iddah* itself is a period that a woman must pass through to ensure that there is no possibility of pregnancy from her husband before she remarries. In this context, iddah alimony includes financial support and basic needs that the husband must provide for his ex-wife (Riza, 2022). After divorce, Islam still regulates the obligation of the ex-husband to provide support for his ex-wife and children (Rakhmawati, 2021).

Article 158 of the Compilation of Islamic Law (KHI) regulates the obligation of the husband to give *Mut'ah* to his wife in two situations. First, if the dowry has not been determined at the time of the marriage contract, but the relationship (*ba'da ad-dukhul*) has occurred, the husband must provide *Mut'ah* as compensation or comfort for the wife. Second, if the divorce occurs at the will or decision of the husband, not at the wife's request, the husband is also obliged to give *Mut'ah* (Shiddiq, 2021). *Mut'ah* comes from the Arabic word "*mata*" which means something that can be used or enjoyed (Abidin, 2021). *Mut'ah* is intended to help ease the burden of a divorced wife, materially and psychologically.

Article 160 of the Compilation of Islamic Law (KHI) regulates *mut'ah*, which is a gift that must be given by the husband to his wife during divorce as a form of respect (Directorate of Development of the Religious Justice Agency, Directorate General of Islamic Religious Institutional Development, Ministry of Religion of the Republic of Indonesia, Presidential Instruction Number 1 of 1991: Compilation of Islamic Law in Indonesia, 12). This article states that the amount of *mut'ah* is not determined definitively but must be adjusted to several factors, namely (Syarifuddin, 2006):

1. Propriety: The amount of *mut'ah* must be reasonable and by fair circumstances. Propriety includes various considerations, such as the length of the marriage, the wife's sacrifice during the marriage, and other factors worth considering in a socio-cultural context.
2. Husband's Ability: The husband's economic condition plays an important role in determining the amount of *mut'ah*. Husbands with good economic ability are expected to provide more *mut'ah* than husbands with financial limitations. The goal is to keep the gift proportional and not burden the husband.
3. Length of Marriage: The marriage's length is also often considered. The longer the couple is married, the greater the *mut'ah* given since it is considered that the wife's contribution during the marriage is more significant. A wife who has been married for a long time certainly has a greater right to such compensation than a marriage that has only lasted a short time.
4. Wife's Role and Contribution in Marriage: The wife's role during marriage, for example, whether the wife works and helps the family economy or plays a full role as a homemaker, can also affect the amount of *mut'ah* given. The greater the wife's contribution to building the household, the higher the value of the *mut'ah* worthy of being given.

According to the majority view of scholars, who state that the socioeconomic status of husband and wife is not always equal, there are three main views regarding who should be used as a reference in determining the amount of alimony (Syarifuddin):

1. Imam Ahmad argued that alimony is determined based on the husband and wife's socio-economic conditions.
2. Imam Abu Hanifah and Imam Malik argued that alimony should be adjusted to the wife's needs.
3. Imam Shafi'i and his followers, as well as most of the Imamiyah scholars, argued that alimony is measured based on the husband's economic condition. *Imamic* scholars also argue that a wife's livelihood must include necessities such as food, clothing, shelter, and household items by her standard of living in her area. However, another view states that the reference is the husband's condition, not the wife's.

Results of the judge's interview on *mutakah* or *iddah* alimony According to Government Regulation 45 of 1990, there are several main focuses on the husband's obligation to provide alimony to his ex-wife after divorce. However, this regulation does not explicitly regulate other rights, such as *mut'ah* or *nafkah iddah*, which are better known in the context of Islamic law and are regulated in the Compilation of Islamic Law (KHI).

Mut'ah is a right given to an ex-wife as a form of appreciation after divorce. It is usually given in the form of money or property. This alimony aims to ease the burden on the ex-wife after the end of the marital relationship. On the other hand, *iddah* alimony is the alimony that must be given during the *iddah period*, which is the waiting period after the divorce. It aims to ensure that the ex-wife has financial support during that time.

In the case of a lawsuit divorce, the wife (Plaintiff) is allowed to file a claim for divorce alimony by the results of the plenary of the religious chamber as stated in the Supreme Court Circular Letter No. 3 of 2018. Islam does not set a time limit for the provision of divorce support. However, based on *ijtihad*, *iddah* alimony is given three times during the holy period of the ex-wife. In contrast, *madiyah* alimony (what is owed) is given when the ex-husband no longer provides alimony (Fathurahman, 2021). By providing support after divorce, the ex-husband also shows a sense of responsibility and

appreciation for the past and the ex-wife's role in the family (Khadijah, 2021). If the divorce occurs at the will of the male civil servant, he is obliged to give part of his salary as maintenance for his ex-wife and children with the following division of salaries (Fadli, 2021):

The distribution of salaries is regulated as follows:

- a. A third is for civil servants themselves.
- b. A third is for ex-wives.
- c. One-third for children.
- d. If no children are from the marriage, the ex-wife is entitled to receive half of the ex-husband's salary.

However, there is an exception where the ex-wife is not entitled to receive a share of the salary if the divorce is caused by (Yusrin et al., 2023):

1. An adulterous wife.
2. Wives commit cruelty or severe persecution against their husbands, both physical and psychological.
3. The wife has bad habits such as drunkenness, drug use, or gambling that are difficult to cure.
4. The wife leaves her husband for two years without permission and a valid reason.

If the divorce occurs at the wife's wrath, she is not entitled to a share of the ex-husband's income. The above provisions do not apply if the wife asks for a divorce because:

1. The husband is polygamous.
2. Husbands commit adultery.
3. The husband commits cruelty or severe persecution.
4. The husband becomes a person with alcoholism, a staffer, or a gambler who is difficult to cure.
5. The husband leaves his wife for two years without permission or valid reason (Yusrin et al., 2023).

If the ex-wife of a Civil Servant (PNS) decides to remarry, her right to receive part of the ex-husband's salary will automatically be revoked starting from the moment the new marriage takes place. This provision is designed to avoid overlapping financial obligations between ex-husbands and ex-wives and encourage ex-wives to live a new life without depending on the ex-husband's income (Riza, 2022).

As stipulated in Article 8 Paragraph 4 of Government Regulation No. 94/2021, the following are the types of severe disciplinary punishments (Government Regulation no. 94 2021):

1. Demotion to a lower level for 12 (twelve) months;
2. Exemption from his position to an executive position for 12 (twelve) months;
3. Honorable dismissal is not at its request as a
4. Civil servants.

The Responsibility of Civil Servants' Husbands When Civil Servant Divorce Occurs According to Indonesian Positive Law

The definition of Government Regulation Number 45 of 1990 concerning Marriage and Divorce Permits for Civil Servants (PNS) regulates the procedures and requirements for civil servants who want to carry out marriage or divorce. This regulation aims to ensure that any action related to marriage and divorce does not interfere with the performance and responsibilities of civil servants as state servants (Yusrin et al., 2023).

In the case of marriage, civil servants are required to obtain written permission from the authorized official before holding the marriage. This permit is required to ensure that the marital status of civil servants does not conflict with the rules of professional ethics and does not interfere with official duties that must be carried out (President of the Republic of Indonesia, "Amendments to Government Regulation Number 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants," Government Regulation of the Republic of Indonesia Number 26 of 1985 concerning Roads, no. 2 (2004): 1–13, <https://peraturan.bpk.go.id/Home/Details/64898/pp-no-10-tahun-1983>).

1. Marriage in Government Regulation 45 of 1990

The definition of marriage in Government Regulation Number 45 of 1990 for Civil Servants (PNS) includes several important aspects. First, only legally valid marriages, according to religion and state, are recognized by this PP. Second, civil servants who want to get married are required to obtain permission from authorized officials. In addition, in the case of divorce, civil servants must go through strictly regulated procedures, including obtaining permission and ensuring the reason for the divorce by legal provisions, which can potentially affect other personnel and administrative rights (Nurohim, 2021). Thus, regulations such as Government Regulation Number 45 of 1990 aim to keep civil servants carrying out their duties properly without being influenced by conflicts in their personal lives that may reduce productivity (Itemized, 2022).

2. Civil Servants Can Divorce According to Government Regulation 45 of 1990

Government Regulation of the Republic of Indonesia Number 45 of 1990 concerning Amendments to Government Regulation Number 10 of 1983 regulates provisions related to marriage and divorce permits for Civil Servants (PNS). Article 3 Paragraph (1) states that civil servants going to divorce must obtain permission or certificates from authorized officials before a divorce. This permit is an important requirement to ensure that the divorce carried out by civil servants has gone through the established procedures and does not contradict official rules (Yusrin et al., 2023). Paragraph (2) explains that the plaintiff's permission application must be made in writing through the hierarchical channel. At the same time, the defendant must report the existence of a divorce lawsuit within six working days after receiving the notification (President of the Republic of Indonesia.). Article 5 Paragraph (2) clarifies the role of the direct supervisor of civil servants in the divorce process or requests permission to marry more than one person. To ensure the consideration's accuracy and validity, the employer can request additional information from the spouse concerned or other parties who are considered relevant (Setyaningsih & Nugrahani, 2021).

3. Law Number 1 of 1974 concerning Marriage

Marriage Law No. 1 of 1974 is the legal basis for all Indonesian citizens in regulating marriage and divorce, both for Muslims and non-Muslims. This law affirms the conditions for the validity of marriage, such as the minimum age of prospective husband and wife, consent from both parties and the prohibition of other marital relationships that are still valid. With this provision, the law aims to maintain justice and protect the rights of individuals in living married life (President of the Republic of Indonesia, "Amendments to Government Regulation Number 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants.").

4. Compilation of Islamic Law (KHI)

The Compilation of Islamic Law (KHI) is a collection of Islamic laws and regulations that apply in Indonesia, especially for Muslims regarding family law, including marriage and divorce (Marfuah, 2020). One of the most striking differences between the KHI and the Marriage Act is its legal source. KHI is rooted in Islamic law, while the Marriage Law

takes its basis from Pancasila, the 1945 Constitution, and other laws and regulations. In addition, the divorce procedure in the KHI is more detailed, regulating divorce through *talaq*, including *talaq ba'in* (which cannot be referred back) and *talaq raj'i* (which can be referred to during the iddah period). KHI requires the divorce process to be carried out through a religious court with specific provisions (Nurohim, 2021).

After divorce, KHI also regulates specific legal consequences for Muslims, such as the right of *mut'ah* (alimony given by the husband to his wife after divorce to appease his heart), *nafkah iddah* (alimony during the waiting period after divorce), and inheritance rights. Recent developments in marriage and divorce law in Indonesia show significant changes. Although same-sex marriage has not been explicitly recognized in the law, the issue has sparked widespread discussion in the community. Law Number 1 of 1974 concerning Marriage is the source of Islamic marriage law and family law that regulates in a complete and modern manner the marriage and divorce of Muslims rooted in Islam (Atmoko, 2022).

Responsibility of Civil Servant Husbands to Ex-Wife during Divorce according to Government Regulation 45 of 1990

The responsibility of civil servant husbands towards ex-wives, according to PP 45 of 1990, includes alimony obligations; understanding and carrying out this responsibility not only fulfills legal obligations but also creates better conditions for ex-wives and their children. One of the responsibilities of a civil servant husband after divorce is to provide support to the ex-wife, especially if the ex-wife does not have an income or cannot meet her living needs (Yusrin et al., 2023). PP 45 of 1990 stipulates that ex-wives are entitled to proper maintenance, depending on the husband's financial situation and the agreement reached. Financial Responsibility of Civil Servant Husbands After Divorce according to Government Regulation 45 of 1990. Financial liability also includes:

- a. Distribution of joint property: In divorce, property acquired during marriage is referred to as joint property. Government Regulation No. 45 of 1990 emphasizes the importance of distributing common property fairly and transparently. Civil servants are responsible for compiling an inventory of joint assets owned and distributing them according to the provisions of applicable law.
- b. Debt repayment during marriage: Civil servants are also responsible for settling debts that may exist during the marriage. Government Regulation No. 45 of 1990 stipulates that debts taken on behalf of both parties must be settled after divorce.

This maintenance obligation only applies to male civil servants, not women; this PP applies even if the divorce lawsuit is caused by the bad behavior of male civil servants (Yusrin et al., 2023). From the results of the interview with the Judge of the Medan Religious Court Class 1A, in the interview, there are several links about the Financial Responsibility of Civil Servant Husbands After Divorce (Interview of the Judge of the Medan Religious Court Class 1A. On September 12, 2024). The judge said that husbands with civil servant status are responsible for providing maintenance to their ex-wife after divorce and children, but not all get it back according to the provisions of the PP. This provision is regulated in Government Regulation Number 45 of 1990 and applies as part of the husband's responsibility that ends in divorce. The goal is to ensure that the ex-wife remains financially supportive after the marriage ends.

The Responsibility of Civil Servants' Husbands According to the Compilation of Islamic Law (KHI)

In the Compilation of Islamic Law (KHI) that applies to Muslims in Indonesia, a husband, including a husband with the status of a Civil Servant (PNS), is responsible for providing for his wife and children. This obligation continues despite divorce, primarily

to support ex-wives and children in meeting their basic needs. The following are some of the provisions of the KHI that regulate the liability of civil servant husbands for post-divorce maintenance:

1. Nafkah During the Iddah Period (Article 149 KHI):

The provisions for iddah maintenance for civil servant husbands can be determined through a religious court decision, which has the authority to determine the amount of alimony based on the ex-wife's needs and the husband's financial ability. Thus, both KHI and Government Regulation No. 45 of 1990 provide a strong legal basis for the court to establish maintenance obligations during the iddah period, which ensures that the husband's responsibilities continue even after the marital status has ended.

2. Mut'ah as Compensation (Article 158 KHI):

For husbands with the status of Civil Servants (PNS), the obligation to give mut'ah is also strengthened by a religious court decision referring to Government Regulation No. 45 of 1990 (Yusrin et al., 2023). As a public servant, the husband of a civil servant is required to comply with this additional rule as a form of social and moral responsibility towards the ex-wife, thus ensuring that he does not experience financial difficulties after divorce. This mut'ah payment also reflects the legal protection afforded to ex-wives to maintain welfare after separation (Sari et al., 2024). The religious court can determine the amount of mut'ah based on the husband's financial ability and the ex-wife's needs.

3. Child Support (Article 156 KHI):

Even if divorce occurs, the husband is still financially responsible for providing for his children. Article 156 of the Compilation of Islamic Law (KHI) stipulates that husbands must provide for their children until they are adults or economically independent. For husbands who have the status of Civil Servants (PNS), this obligation can be enforced through a direct salary deduction mechanism by the relevant agencies so that children's rights are still protected and fulfilled (Marfuah, 2020). Government Regulation No. 45 of 1990 provides a basis for regulating this salary deduction, which facilitates supervision of maintenance obligations, especially if the husband of a civil servant is reluctant to pay child support voluntarily. This procedure ensures that the financial responsibility of the husband of civil servants towards his children after the divorce can be fulfilled consistently.

The Responsibility of the Husband of Civil Servants According to the Marriage Law

Article 34 Paragraph 1 of the Marriage Law stipulates that the husband is responsible for the fulfillment of maintenance for his wife and children. Maintenance obligations include food, clothing, shelter, education, and children's health. As a servant of the state, a civil servant must also comply with this provision because his duties as husband and father are personal and related to social responsibility. This failure can bring more serious legal consequences, especially for civil servants, considering that civil servants are bound by additional rules in Government Regulation No. 45 of 1990 (Atmoko, 2022). Thus, the marriage law not only regulates family rights but also strengthens the responsibility of a civil servant to carry out his role in a balanced manner.

Article 41 of the Marriage Law affirms that even if a marriage ends through divorce, the husband is still responsible for providing for the children until adulthood or can be economically independent. This means that the husband's maintenance obligations are not interrupted by divorce, especially if the children still need financial support to meet their education, health, and other welfare needs. As civil servants, divorced husbands must comply with this rule because violating these obligations can result in sanctions or salary deductions as a form of execution. In addition, for divorced civil servant husbands, Government Regulation 45 of 1990 provides special rules that complement the

obligations in the Marriage Law. This PP allows the government agency where civil servants work to make salary deductions to meet their maintenance obligations to ex-wives and children. If the religious court decides the amount of alimony that must be given, the relevant agencies can help ensure its implementation by directly deducting the salary of civil servants.

In addition to iddah maintenance, the Marriage Law also supports the provision of mut'ah or financial compensation for ex-wives when divorce occurs on the initiative of the husband. If the husband is a civil servant, the court can affirm the granting of this mut'ah through salary deductions, which aim to give respect and financial reward to the ex-wife. This provision reflects the government's commitment to protecting the rights of ex-wives, especially in cases of divorce caused by a unilateral decision of the husband. For children, the marriage law and special provisions for civil servants regulate the maintenance that the husband must provide after divorce. Children who are immature or not yet economically able to be independent are entitled to ongoing financial support from their fathers (Rahman, 2021).

LEGAL ANALYSIS OF JUDGE'S DECISION NUMBER 27/PDT. G/2022/PA.TTE

Position Case in the Decision of the Ternate City Religious Court Number 27/Pdt.G/2022/PA. Tte

In this decision, the Plaintiff's wife and the Defendant's husband, during their marriage, were blessed with four children: Chandra Saputra Rachmat Bin Rachmat Mahmud, Rivkha Dwiputri Rachmat Binti Rachmat Mahmud, Muhammad Al-Hu dzaifah Rachmat Bin Rachmat Mahmud, M. Ubaidillah Rachmat Bin Rachmat Mahmud, all of whom were children from the marriage of the plaintiff and the defendant. Initially, the household of Plaintiff and Defendant was harmonious and harmonious However, in 2012, the domestic peace between Plaintiff and Defendant began to occur due to frequent disputes between Plaintiff and Defendant, which were triggered by the presence of another woman in the marriage, and the wife found out that her husband had married another woman without her knowledge since then her husband often did not return home.

Regarding the mediation process, the Panel of Judges has advised the Applicant through explanations of various related matters that this case cannot be mediated because the Defendant has never appeared, even though he has been officially and adequately summoned. However, the Panel of Judges has advised the plaintiff not to divorce, but the plaintiff remains on the postulate of his postulate. In this case, the Applicant is the wife of the Defendant, who filed for divorce on January 3, 2022, has filed an application for Divorce Lawsuit, which has been registered at the Ternate Religious Court Clerk, with Number 27/Pdt.G/2022/PA.Tte, January 05, 2022.

The Plaintiff and the Defendant are husband and wife who have been married on November 13, 2005 and recorded by the Marriage Registrar of the Religious Affairs Office of North Ternate City District, Ternate City, North Maluku Province, in accordance with the Marriage Certificate Citation number: 543/05/XI/2005, dated November 14, 2005, after the marriage, the Plaintiff and the Defendant lived together at the house of the Defendant's parents who were located in Moya Village, Central Ternate City District, Ternate City, then the Plaintiff and the Defendant built a house owned jointly at the same address as the house of the Defendant's parents, on the 23rd since August 2021 until now, the Plaintiff knew that the Defendant had married another woman without the Plaintiff's knowledge, since then the Defendant often did not return to the Plaintiff's house feeling that the Plaintiff's and Defendant's household was no longer suitable to be maintained, and the Plaintiff has made up his mind to divorce the Defendant.

Based on the above evidence, the plaintiff applied to the panel of judges

PRIMARY:

1. Accept and grant the Plaintiff's lawsuit in its entirety;
2. Imposing a talaq of one Defendant against the Plaintiff
3. Charging case fees according to the Law;

SUBSIDER:

If the panel of judges has a different opinion, please rule as fairly as possible

Decision Number 27/Pdt.G/2022/PA analyzes the judge's decision. Tte Based on Positive Legal Regulations in Indonesia

This decision outlines the divorce case between the Plaintiff and the Defendant, who has the status of a Civil Servant (PNS). Plaintiff filed the divorce based on protracted domestic disputes, including the infidelity of Defendant, who had married another woman without Plaintiff's knowledge. In addition to divorce, this judgment also discusses the maintenance rights that the Defendant must give to his ex-wife and their children.

The panel of judges first examined and decided the plaintiff In the judge's consideration, PP 45 of 1990, that the defendant as a civil servant has a sufficient and certain income by considering the sense of justice and the need and propriety of the Plaintiff, the Defendant should be punished to pay *Nahkah Iddah* and specifically regarding *Mut'ah*, it is also necessary to consider the length of time the Plaintiff and the Defendant have been married, namely more than 15 years during which time the Plaintiff has served and give happiness to the Defendant both physically and mentally because it is fair if the mut'ah money given is 12 times the amount of Iddah alimony. The provision of salary to the wife will be given as stipulated in Government Regulation 10 of 1983 in conjunction with Government Regulation 45 of 1990 and BAKN Circular Letter 48 of 1990.

During the trial, the defendant did not appear or instruct others to appear as his legal representative/attorney, even though this was based on the Summons (relaas) 27/Pdt.G/2022/PA. The Tte read at the trial that the Defendant had been officially and properly summoned, but it does not appear that the Defendant's absence was due to a valid reason.

During the trial, the Panel of Judges found the following facts:

- a. The plaintiff and the defendant are legal husband and wife who were married on November 13, 2005.
- b. Plaintiff and Defendant always had disputes and quarrels because Defendant was in a romantic relationship with another woman; even Defendant had married another woman without Plaintiff's knowledge.
- c. The families of Plaintiff and Defendant have advised Plaintiff and Defendant to be patient and want to get along again, but to no avail.

The decision of the Ternate Religious Court in Number 27/Pdt.G/2022/PA. They stated that the defendant was obliged to support their children by one-third of his salary. This child support is a priority in the decision, ensuring that even if the parents divorce, the children's rights remain financially protected. This payment is not only regulated nominally. However, it is also carried out through direct deductions from the agency where the Defendant works as a civil servant, strengthening the certainty of the timely implementation of alimony (Marlinda, 2021).

By making payments through agencies, the court ensures that financial obligations to children are fulfilled without technical obstacles or delays from the Defendant. This arrangement minimizes non-compliance risk and provides security for ex-wives as the party who will receive the funds for their children's needs. It also shows that the law

prioritizes the interests of children in divorce, providing strict legal protections so that they are not adversely affected by parental separation.

The Ternate Religious Court in decision Number 27/Pdt.G/2022/PA.Tte stipulated that the Defendant, a civil servant, must pay iddah maintenance for three months in Rp. 3,000,000.00 and mut'ah money of Rp. 36,000,000.00 to the Plaintiff. The panel of judges also determined to give 1/3 (third) of Defendant's salary to Plaintiff as long as Defendant did not remarry and gave 1/3 (third) of Defendant's salary to the children of Plaintiff and Defendant, which was given to Plaintiff. Giving Defendant's salary to Plaintiff was carried out through the institution of the leader/treasurer of the unit where Defendant was.

Analyse the judge's considerations in Decision Number 27/Pdt.G/2022/PA.Tte Based on Positive Legal Regulations in Indonesia

The judge's legal considerations in deciding case Number 27/Pdt.G/2022/PA.Tte is that in the case of the mediation process, the Panel of Judges considered that Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court could not be implemented because the Respondent was not present at the trial. Even so, in order to comply with the provisions of Article 154 R.Bg. juncto Article 56 Paragraph (2) of Law Number 7 of 1989 concerning Religious Courts, which has been amended by Law Number 3 of 2006 and the second amendment by Law Number 50 of 2009, the Panel of Judges in having advised the Applicant through explanations of various related matters, that this case cannot be mediated because the Defendant has never appeared even though he has been officially summoned and but the panel of judges has advised the plaintiff not to divorce. However, the plaintiff remains on the postulate of his postulate.

The evidence of the plaintiff is that the plaintiff and the defendant are husband and wife who were married on November 13, 2005, and recorded by the Marriage Registrar of the Religious Affairs Office of North Ternate City, Ternate City, North Maluku Province, by the Citation of the Marriage Certificate number: 543/05/XI/2005, dated November 14, 2005, the marriage between the Plaintiff and the Defendant was held based on the will of both parties to form a household, after the marriage, the Plaintiff and the Defendant lived together at the house of the Defendant's parents which was located in Moya Village, Central Ternate City District, Ternate City, then the Plaintiff and the Defendant built a house owned jointly at the same address as the house of the Defendant's parents in the marriage, the Plaintiff and the Defendant had four children from the marriage.

As for this verdict, the judge found the facts in the trial. Plaintiff and Defendant always had disputes and quarrels because Defendant was in a romantic relationship with another woman; even Defendant had married another woman without Plaintiff's knowledge. This is an act of Defendant that has destroyed Plaintiff's and Defendant's household, and or the household is considered to have broken up and very difficult to reconcile, and this is one of the reasons for divorce as stipulated in article 19 letter f of Government Regulation Number 9 of 1975 jo article 116 letter f of the Compilation of Islamic Law, On (KHI), which regulates family law for Muslims in Indonesia. The Defendant's act of remarrying without following proper legal procedures is considered to be infidelity and betrayal of the trust of the first wife, which causes emotional and moral harm to the Plaintiff. According to KHI, a husband who wants to remarry must get the court's permission and the first wife's approval. Violation of this provision not only harms the marriage bond but also violates the principle of justice upheld in Islam.

From the facts of the trial, the Judge considered that the Plaintiff as a wife was not proven to be *nusyuz*; in KHI, *Nusyuz* refers to the disobedient behavior shown by the wife towards her husband. This term is taken from the verses of the Qur'an, especially QS. An-

Nisa: 34 and 128 discusses the iniquity of the wife and the husband. However, in KHI, more emphasis is placed on the wife's behavior, thus creating gender injustice and vice versa. Plaintiff has become a victim of Defendant's actions as a husband who works as an ASN who has arbitrarily castrated the rights of his wife and children by cheating with another woman and even remarrying without the permission of the Court and the wife's consent. At the same time, leaving or abandoning his wife and children

In this decision, the Panel of Judges, in its consideration, has stipulated that with infidelity in the marriage of a violation committed by the husband by the PP, the husband gives 1/3 of his salary to the ex-wife stipulating that the Defendant, who has the status of a civil servant, must pay *iddah maintenance* for three months in the amount of Rp. 3,000,000.00 and *mut'ah* money of Rp. 36,000,000.00 to the Plaintiff. This *mut'ah* money is financial compensation given as a form of appreciation for a marriage that has lasted more than 15 years and to support the ex-wife in the transition period after the divorce. The court considered that the amount of *mut'ah* was in line with the length of the marriage and the wife's contribution during the marriage (Badrudin, 2018).

The judge in the decision Number 27/Pdt.G/2022/PA.Tte also considered Government Regulation Number 45 of 1990, which regulates marriage and divorce permits for Civil Servants (PNS). This regulation requires divorced civil servants to remain financially responsible for their ex-wives and children. In this case, the judge required the Defendant, a civil servant, to provide *iddah* and *mut'ah* support to the Plaintiff and pay one-third of his salary for the needs of his ex-wife and children. This reflects the enforcement of responsibilities expressly regulated by Government Regulation No. 45 of 1990.

From the results of the Medan Religious Court Class 1A (Results of the interview of the Medan Religious Court interview on September 12, 2024). Judge. Your views on the judge's decision on the decision of the Ternate City Religious Court NUMBER 27/PDT. G/2022/PA. TTE) Any judge's decision must consider the facts revealed at the trial, the arguments of both sides, and the applicable legal basis. Suppose the judgment gives fair rights to the ex-wife, including alimony and other special considerations such as *mut'ah* or *iddah* alimony. In that case, it reflects fulfilling the husband's legal responsibilities after divorce. A verdict that considers economic conditions, the needs of ex-wives, and the welfare of children, if any, is crucial in creating justice.

The Panel of Judges in Decision Number 27/Pdt.G/2022/PA. The Plaintiff in the Plaintiff's Petition Does not ask for maintenance responsibility; in the Petition Imposing *talaq one bain shugra*, the Defendant (Rachmat Mahmud alias Rahmat Mahmud Bin Mahmud Daud) against the Plaintiff (Rosita Ade Binti Ade Hi. Payo) and Charging case fees according to the Law. The Panel of Judges in Decision Number 27/Pdt.G/2022/PA. The Punishes the Defendant Gives 1/3 of the Defendant's salary, which the plaintiff did not request in this decision, with which the judge agrees. Article 192, paragraph (1) of the Civil Procedure Code (KUHAPerdata) states that the judge must decide the case based on the existing evidence, even though the plaintiff may not request the evidence. In this context, the judge may render a broader or different verdict than the plaintiff requested if, in his judgment, it is necessary to provide better justice for the party concerned. In general, even though the judge is passive in accepting the charges and evidence, the judge still has the authority to give a verdict that can include matters that are not explicitly requested by the plaintiff, as long as they are still related to the subject matter and do not violate the rights of the defendant (Jayadi, 2024).

Based on a research interview with the Medan Religious Court Class IA (Results of the interview with the Medan Religious Court on September 12, 2024). Post-divorce

alimony, according to PP 45 of 1990, has specific provisions on the amount of alimony that must be given, weighing from all assets that existed during the marriage, and weighing from the civil servant in providing alimony to the ex-wife after divorce for civil servants who are the responsibility of the ex-husband. However, this regulation does not explicitly regulate the amount of alimony that must be given. The amount of alimony is generally determined based on a court decision that considers various factors, such as the husband's economic ability, the needs of the ex-wife, and the living conditions after the divorce.

The court has provisions for determining the amount of alimony. We, as judges, will assess the financial ability of the civil servant's husband, which can be seen from his income and other financial responsibilities. We will also assess the reasonable needs of the ex-wife, especially if he does not have his income or has children who need support. In addition, consideration of lifestyle during marriage can also be a reference so that the alimony decision is fair and proportionate for both parties.

This decision is based on Indonesia's favorable legal arrangements. This verdict is expected to protect the ex-wife of a civil servant and fulfill legal objectives, namely justice, utility, and legal certainty.

CONCLUSION

Provisions for alimony according to Government Regulation Number 45 of 1990 and KHI. The Compilation of Islamic Law (KHI) regulates the obligation of husbands to provide *Iddah* and *Mut'ah maintenance* in Government Regulation 45 of 1990, Requiring all husbands who are civil servants to provide maintenance for their ex-wives by Government Regulation 45 of 1990 article 8 paragraph 4 letter b. Government Regulation Number 45 of 1990 provides a strict law enforcement mechanism. Suppose the civil servant does not fulfill his obligations. In that case, the court can order a deduction of salary directly from the agency where the husband works, or the ex-wife can apply for the execution of the decision to the court if the ex-wife does not receive maintenance as determined by the court and report to the agency with conformity (PP) No. 94/2021 concerning Civil Servant Discipline, which among other things regulates disciplinary sanctions for civil servants who violate the rules. One of the important provisions in this PP is contained in Article 45, which emphasizes that civil servants who violate the rules in Government Regulation No. 10/1983 concerning Marriage and Divorce Permits, as amended by Government Regulation No. 45/1990. If this maintenance obligation is not fulfilled, it can also impact the administrative rights of civil servants, such as delays in the issuance of Divorce Certificates and demotion of positions. Thus, non-compliance with the maintenance order has serious legal consequences aimed at protecting the rights of the ex-wife.

The responsibility of the husband of a civil servant towards the ex-wife, according to PP 45 of 1990, includes the obligation of alimony, understanding, and carrying out responsibilities; this not only fulfills legal obligations but protects the rights of the ex-wife. In KHI article 149, the husband's responsibility is alimony *iddah*, as a form of financial support for the ex-wife so that he does not experience economic difficulties after divorce. In KHI article 158 *Mut'ah*, It is also the responsibility of the husband of a civil servant to his ex-wife. The giving of *mut'ah* is to pay respect and maintain the welfare of the ex-wife after divorce. In article 156 of the KHI, the husband is obliged to provide for his children until they are adults or able to be economically independent. In the Marriage Regulation Article 41 of the Marriage Law, it is emphasized that if the marriage ends through divorce, the husband is still responsible for providing for the children until they

are adults or able to be economically independent; according to the Marriage Regulation, the responsibility for divorce is given only by the husband the rights of the children and follows the existing regulations.

Analysis of Legal Decisions on the Provision of Maintenance of Civil Servants' Ex-Wives in Decision 27/Pdt.G/2022/PA.Tte. In the decision Number 27/Pdt.G/2022/PA. The court upheld Government Regulation No. 45 of 1990 by stipulating that the Defendant, a civil servant, must provide iddah and mut'ah support to the Plaintiff and pay one-third of his salary for the needs of his ex-wife and children. The judge also postponed the issuance of the Divorce Certificate until the maintenance obligations were paid. This ruling reflects the proper application of the regulation, where divorced civil servants remain responsible for the financial needs of ex-wives and children. In addition, this decision also shows how Indonesia's positive law, especially in the case of civil servants, protects the financial rights of ex-wives after divorce.

The government hopes to change several articles related to the provision of alimony in the PP that are not specific to the distribution of property. The amount of alimony should be determined based on the needs of the ex-wife and the financial ability of the ex-husband. In this case, clear guidelines or standards should be established to avoid uncertainty and injustice in determining the amount of alimony.

For civil servants and the general public to understand the content and application of Government Regulation No. 45 of 1990. Civil servants need more intensive socialization about the rights and obligations of alimony, which can be carried out through seminars or legal counseling. Thus, the parties will be more aware of their responsibilities after the divorce.

Encourage the implementation of more intensive mediation procedures for civil servants who file for divorce to resolve the issue amicably before finally filing for divorce in court.

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