



Analysis Of Judge's Considerations In Determining Iddah And Mut'ah Maintenance In Verste Divorce Decision (Study Of Decision Number 975/Pdt.G/2025/PA.Cjr)

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ABSTRACT

Divorce is a socio-legal phenomenon that continues to rise in Indonesia, including in Cianjur Regency, where many divorce cases are decided through verstek (default judgment). This raises issues regarding wives' rights, particularly livelihood iddah and mut'ah, which must still be provided even if the wife is absent in court. This study aims to analyze judicial considerations in determining livelihood iddah and mut'ah in verste divorce cases, factors influencing the amount, and the application of justice principles. A qualitative-empirical approach was applied through interviews with a judge of the Cianjur Religious Court who handled case Number 975/Pdt.G/2025/PA.Cjr, supported by document analysis and literature review. The findings reveal that decisions are based on Law Number 1 of 1974 and the Compilation of Islamic Law, considering the husband's economic capacity, the wife's standard of living, and marriage duration. Legal, socio-economic, and utility factors also matter. Justice appears in proportional rulings protecting wives' rights without overburdening husbands.

Keywords: *judicial considerations, iddah maintenance, mut'ah, divorce, verste.*

INTRODUCTION

The divorce phenomenon in Indonesia shows an increasing trend from year to year. In Cianjur Regency, the number of divorce cases in 2024 was recorded at 4,741, a significant increase from 3,370 cases the previous year. Of this number, divorce cases decided by default accounted for a significant portion, in which the wife, as the respondent, failed to appear despite being legally summoned (Cianjur Statistics Agency, 2024:12). This situation places judges in a strategic position, not only as law enforcers but also as protectors of women's rights after divorce, particularly regarding iddah (waiting period) and mut'ah (waiting period) support (Irmantasir, Interview 2025).

From an Islamic perspective, fulfilling the rights of an ex-wife after a divorce is firmly grounded. One of these is the obligation to provide iddah maintenance, which is the provision of living expenses for the ex-wife during the waiting period after the divorce. The iddah period is not merely a ritualistic Sharia regulation, but also has social and humanitarian dimensions, providing the ex-wife with the opportunity to rest, recover psychologically, and ensure there are no pregnancies for which the husband remains responsible (Zuhaili, 2003:7167). Therefore, the obligation to provide iddah maintenance reflects the ex-husband's

moral and material responsibility to ensure that his wife is not neglected after the divorce. This provision is affirmed in the words of Allah SWT in Surah At-Talaq verse 6:

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ

Place them (divorced wives) where you live according to your ability and do not make it difficult for them to narrow their (hearts).

Furthermore, Islam also emphasizes the existence of mut'ah, namely the provision of appropriate compensation from the husband to the divorced wife as a form of appreciation and respect for the former marital relationship. This provision is not only interpreted as a material obligation, but also as a form of moral and social protection for the ex-wife so that she does not feel demeaned due to the divorce (Zuhaili, 2003:345). Thus, mut'ah has dimensions of justice and welfare that are in line with the principles of sharia. The provisions regarding the obligation of mut'ah are emphasized in the word of Allah SWT in Surah Al-Baqarah verse 241:

وَالْمُطَلَّقَاتُ مَتَاعٌ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ

For divorced wives there is the right to mut'ah in an appropriate manner. This is the provision for those who are pious.

These normative provisions were later reinforced by positive legal regulations in Indonesia. Normative provisions regarding the provision of 'iddah and the provision of mut'ah as affirmed in the Qur'an were then reinforced by positive legal regulations in Indonesia. Law Number 1 of 1974 concerning Marriage, specifically Article 41 letter (c), authorizes the court to require the ex-husband to cover the living expenses of his ex-wife after a divorce. This provision aligns with the aim of protecting women's rights so that they are not neglected after the marriage ends. This is reaffirmed in Article 149 of the Compilation of Islamic Law (KHI), which explicitly regulates the obligation of the ex-husband to provide adequate 'iddah and mut'ah maintenance as a form of moral and material responsibility (Supreme Court of the Republic of Indonesia, 1991:149).

However, in practice, judges often face obstacles in determining the amount of maintenance in default cases. The theory of ex officio rights is an important basis, as it authorizes judges to determine maintenance during the iddah and mut'ah periods even if the wife does not request it (Thariq, 2019:55). This aligns with the principles of justice and the principle of maqāṣid al-syari'ah, which emphasizes protection of the soul (*hifz al-nafs*), honor (*hifz al-'ird*), and property (*hifz al-mal*) (Al-Ghazali, 1997:132).

Previous research has focused more on determining maintenance in divorce cases involving both parties. Research that specifically examines the dynamics of judges' deliberations in default cases is rare, even though this situation places judges in a strategic position to exercise ex officio authority to ensure substantive justice (Thariq, 2019:55). Therefore, this study aims to fill this gap.

This research focuses on analyzing judges' considerations in determining iddah and mut'ah maintenance in divorce cases decided by default, identifying

factors influencing the decisions, and assessing the extent to which the principles of substantive justice are reflected in the decisions. This research is expected to provide scientific contributions to the development of Islamic family law studies and practical benefits for religious courts in providing legal protection to women after divorce.

RESEARCH METHODS

This study uses a qualitative-empirical approach with a field research design. This approach was chosen to gain a deeper understanding of religious court practices, particularly judges' considerations in determining 'iddah and mut'ah maintenance in divorce cases decided by default. Qualitative research is deemed appropriate because it emphasizes understanding the meaning, process, and legal considerations used by judges, rather than simply numerical data (Moleong, 2017:11).

The research method used is a case study, namely a comprehensive review of the Cianjur Religious Court Decision Number 975/Pdt.G/2025/PA.Cjr. The case study was chosen because it allows researchers to delve deeper into the legal, sociological, and philosophical aspects underlying the decision. The research procedures include: (1) a preparation stage by compiling interview instruments and reviewing related literature; (2) an implementation stage in the form of in-depth interviews with the judge who decided the case, field observations, and collection of decision documents; and (3) an analysis stage by linking field findings with Islamic legal theory and applicable positive legal regulations.

The research was conducted at the Cianjur Religious Court, Jalan Raya Bandung No. 45, Karangtengah, Cianjur Regency, West Java, in April–May 2025. The main research instrument was an in-depth interview guideline compiled based on the research focus, namely: (1) judges' considerations in determining 'iddah and mut'ah maintenance, (2) factors influencing the determination of the amount of maintenance, and (3) the application of the principle of justice in decisions. In addition to interviews, documentation instruments in the form of analysis of copies of decisions and related regulations were also used.

RESULTS AND DISCUSSION

1. Judge's Considerations in Determining Iddah and Mut'ah Support in Verstek Divorce Talak Decisions

The results of the study indicate that in Decision Number 975/Pdt.G/2025/PA.Cjr the judge based his considerations on the provisions of Article 41 letter (c) of Law Number 1 of 1974 and Article 149 of the Compilation of Islamic Law. Although the case was decided by default, the judge still determined the iddah and mut'ah maintenance because the divorce occurred after the dukhul and there was no indication of nusyuz from the wife. The judge considered that this obligation was normative and ex officio in order to protect women's rights. This consideration is in line with the view of Wahbah Zuhaili who emphasized that the iddah maintenance is the wife's right after the divorce, while mut'ah is appropriate compensation to maintain her dignity (Zuhaili, 2003:345).

Furthermore, religious court jurisprudence in Indonesia demonstrates consistency in practice. For example, Supreme Court Decision No. 137 K/AG/2007 affirms that even if a divorce case is decided by default, the judge still determines the obligation to provide for the iddah (waiting period) and mut'ah (waiting period) to protect women's rights.

2. Factors that Influence the Judge's Decision in Determining the Amount of Support

The determination of the amount of maintenance in this case is influenced by several factors. From a legal perspective, the judge is guided by Law Number 1 of 1974 concerning Marriage, specifically Article 41 letter (c), which authorizes the court to determine the ex-husband's obligation to provide living expenses for his ex-wife. Furthermore, Article 149 of the Compilation of Islamic Law (KHI) is also an important basis, as it explicitly stipulates the obligation of a husband who pronounces a divorce to provide adequate maintenance during the iddah and mut'ah periods. From a socio-economic perspective, the judge considers the husband's financial condition, the ex-wife's standard of living, and the length of the marriage. Meanwhile, from a legal perspective, the judge strives to ensure that the decision does not impose an excessive burden on the husband, while still fulfilling the wife's rights proportionally. This consideration aligns with the concept of *maslahat* in Islamic law, which emphasizes a balance between rights and obligations to achieve substantive justice (al-Syathibi, 1997:212).

3. Application of the Principle of Justice in Judges' Decisions Regarding Wives' Rights After Divorce

The application of the principle of justice in this decision is evident in the judge's efforts to balance the interests of both parties. The judge used his *ex officio* authority to guarantee the wife's rights even though she was not present at the hearing. This decision also reflects the *maqāṣid al-syari'ah* which emphasizes the protection of human welfare. This is evident from the fulfillment of the aspects *hifẓ al-naḥs* (life protection) through the determination of iddah maintenance to guarantee the basic needs of the ex-wife, as well as other aspects *hifẓ al-nasl* (protection of offspring) if the wife is still pregnant or breastfeeding so that the continuity of the generation is maintained. In addition, the aspect *hifẓ al-māl* (protection of assets) is also realized through the provision of mut'ah as economic compensation, while the aspect *hifẓ al-'ird* (protection of dignity) is reflected in the moral value of mut'ah, which protects the honor of the divorced wife. Thus, the judge's decision not only has a formal legal dimension but also realizes the primary goal of Islamic law in upholding the public interest and substantive justice. This is in line with research results which confirm that the values of justice, respect for individual dignity, and protection of rights are important parts of creating a humanistic and just social system. (Latipah et al. 2025)

CONCLUSION

The judge's considerations in determining the 'iddah and mut'ah maintenance in Decision Number 975/Pdt.G/2025/PA.Cjr are based on the

provisions of Article 41 letter (c) of Law Number 1 of 1974 and Article 149 of the Compilation of Islamic Law. The judge considered that even though the case was decided by default, the wife's rights must still be protected, especially because the divorce occurred after the *dukhul* and there was no indication of *nusyuz*. With *ex officio* authority, the judge determined the *'iddah* and *mut'ah* maintenance as a form of legal protection and respect for the ex-wife.

Factors influencing a judge's decision on the amount of alimony include legal, socio-economic, and the principle of legal expediency. The legal aspect refers to the provisions of the Marriage Law and the Compilation of Islamic Law (KHI), which normatively regulate the rights of the ex-wife. The socio-economic aspect considers the husband's financial capacity, the ex-wife's living conditions, and the length of the marriage. The principle of legal expediency emphasizes balance so that the decision does not burden the husband while still guaranteeing the wife's rights proportionally.

The application of the principle of justice in the judge's decision is evident in the effort to balance the rights and obligations of both parties. The judge used *ex officio* authority to ensure the wife's rights were fulfilled after the divorce, even though she was not present at the hearing. This consideration simultaneously reflects the principle of substantive justice and the objectives of Islamic law, namely, safeguarding the family's well-being, protecting women's rights, and preventing injustice. Thus, this decision demonstrates that the judge not only formally enforces positive law but also internalizes the values of justice and protection of women.

Based on the findings of this study, several suggestions can be put forward. First, for religious courts, consistency in the application of *ex officio* authority in divorce cases is needed to ensure the protection of the wife's rights. Second, for judges, a more measurable assessment standard is needed regarding the amount of *'iddah* and *mut'ah* maintenance, so as to create legal certainty and proportional justice. Third, for policymakers, consideration should be given to developing technical regulations regarding the determination of post-divorce maintenance to ensure uniformity across all religious court jurisdictions. Fourth, for further research, it is recommended to examine the comparison of similar decisions in several religious courts to determine the consistency of the application of the principle of justice in the context of *'iddah* and *mut'ah* maintenance.

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