

Development Of Fulfillment Of Women's Rights In The Batang Religious Court From 2020 To 2024

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Abstract

Legal protection of women's rights after divorce is a crucial issue to examine as a means of measuring the success of a welfare state in realizing constitutional protection of citizens' rights. This article explores the fulfillment of women's rights after divorce in the Batang Religious Court from 2020 to 2024. This article relies on qualitative research, using case studies and interviews with the Chief Justice of the Batang Religious Court. This research shows that the progress in the fulfillment of women's rights in the Batang Religious Court is not driven by male awareness but by the establishment of a strong and robust system in the Batang Religious Court regarding the consistency of legal protection of women's rights in dealing with the law. Applicants for divorce have no choice but to grant the respondent the right to pronounce the divorce vow and officially divorce the respondent. This study concludes that the policy direction and strategy of the Religious Court leadership supported by the similarity of philosophy of each apparatus of the Batang Religious Court is one of the effective ways to ensure that women's rights after divorce can be protected from the applicant's efforts to "outwit" Supreme Court Regulation Number 3 of 2017. This study provides considerations for other Religious Court Chairmen to be able to observe, imitate and modify the existing system in the Batang Religious Court to formulate effective policies in enforcing the legal protection of women's rights after divorce.

Keywords: Legal Protection, Women's Rights, Divorce, Policy

Introduction

Marriage is a sacred covenant that forms a family that begins with the recitation of the oath of marriage or *mitssaqan ghalidzan* (إطّبلغ اّلانّبوم) of a man and a woman. Marriage in the Islamic concept is a strong agreement between husband and wife to create peace and happiness in a family life filled with love as is pleasing to Allah SWT. Article 2 of the Compilation of Islamic Law stipulates that marriage aims to create a household life that is *sakinah, mawaddah and rahmah* so that it should not be damaged by trivial matters that lead to divorce. The Batang Religious Court is one of the class 1B religious courts which has the authority to hear divorce cases for those who are Muslim, with case acceptance data as follows:

Number	Year	Case Received	Divorce Case Accepted	Divorce Case for Divorce and Ex-Wife's Livelihood
1.	2024	2.085 cases	311 cases	1. Iddah total 179 cases 2. Madhiyah total 11 cases

2.	2023	2.280 cases	361 cases	1. Iddah total 183 cases 2. Mut`ah total 4 cases 3. Madhiyah total 8 cases
3.	2022	2.540 cases	455 cases	1. Iddah total 106 cases 2. Mut`ah total 18 cases 3. Madhiyah total 8 cases
4.	2021	2.452 cases	464 cases	1. Iddah total 145 cases 2. Mut`ah total 18 cases 3. Madhiyah total 16 cases 4. Maskan total 1 cases 5. Kiswah total 1 cases
5.	2020	2.498	464 cases	1. Iddah total 42 cases
		cases		2. Madhiyah total 4 cases

This data was obtained from the Batang Religious Court's Case Tracking Information System (SIPP) from 2020 to 2024. As one of the world's largest countries governed by the rule of law, Indonesia faces extraordinary challenges in handling and enforcing the law, including the fulfillment of women's rights in default decisions regarding divorce. Furthermore, the Supreme Court has issued various regulations supporting legal protection for women in conflict with the law, ranging from Supreme Court Regulations (Perma) to Supreme Court Circulars (Sema). This situation demands a more in-depth study of strategies for fulfilling women's rights in Religious Court Panel decisions

The focus of this research is to examine the development of the fulfillment of women's rights in the Batang Religious Court from 2020 to 2024. Data from the Case Tracking Information System (SIPP) of the Batang Religious Court shows that there has been a significant increase in the fulfillment of women's rights in the Batang Religious Court which can be used as one of the parameters for the fulfillment of women's rights as regulated in Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law, but there are still many other Religious Courts that have not realized the fulfillment of women's rights through the decisions of the panel of judges to the maximum. The study conducted by Mohamad Ghozzi Azzam in his thesis entitled "The Rights of Women and Children After Divorce (Study of Divorce Decisions with Verstek in the Batang Religious Court) highlights the burden of iddah, mut`ah, and child support on divorce applicants in 2022, while there is no study on how the fulfillment of women's rights has developed over the years at the Batang Religious Court. Therefore, this study is directed at examining the development of the fulfillment of women's rights at the Batang Religious Court, with a focus on the period from 2020 to 2024.

The Batang Religious Court has initiated legal progress through its panel of judges' decisions that fulfill women's rights after divorce. However, many other Religious Courts have not yet optimally implemented progressive protection of women's rights after divorce. Meanwhile, the divorce rate in Indonesia continues to rise year after year, driven by various factors such as prolonged disputes, relationship disharmony,

economic problems, domestic violence, and infidelity. The phenomenon of divorce has become an increasingly visible social reality. This surge in divorce rates is inseparable from the socio-economic dynamics of society and a lack of understanding of the responsibilities involved in maintaining a household. This situation demonstrates the need for massive improvements in the protection of women's rights after divorce in Religious Courts throughout Central Java in particular and throughout Indonesia in general. Therefore, this study examines strategies for fulfilling women's rights in Religious Court Panel of Judges' decisions. Although there are numerous implementing regulations for Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law, many other Religious Courts have not yet focused their decisions on the progressive protection of women's rights after divorce optimally. Consequently, there remains an inconsistency between the legal basis for protecting women in conflict with the law and the implementation of the law by judges in Religious Courts. This gap indicates the need for a study examining the strategies for fulfilling women's rights in the decisions of the Panel of Judges of Religious Courts, particularly in divorce cases. Based on this gap, this study seeks to answer the question: what are the strategies for fulfilling women's rights in the decisions of the Panel of Judges of the Batang Religious Court, particularly in divorce cases?

Literature Review

1. Progressive Legal Theory

Cicero famously coined the legal adage, "ubi societas ibi ius," which means "where there is society, there is law." Society must come first, and then law follows (society becomes a prerequisite for law). Satjipto Rahardjo provided a basic concept or theory of progressive law. Regulations must be interpreted by understanding the realities of society through substantial legal practice to "justify," "straighten," and "ground" the law. Furthermore, Satjipto Rahardjo emphasized in his basic concept or theory of progressive law a holistic, not a skeletal, approach to law enforcement. This means placing the law as a whole within its environment, grounded in an awareness of its place within society.

Progressive law emphasizes that law must lead to broader social goals such as justice, benefit, and public welfare through fair and equitable legal access for all. Sudimojo Sastroatmodjo reiterated that progressive law embodies honesty and sincerity as the crown of law enforcement, while empathy, concern, and dedication to achieving justice become the spirit of law enforcement. The progressive legal school emphasizes the interpretation of law as an effort to explore the values that exist in society by involving conscience so that a panel of judges' decision is created that provides a sense of justice, especially for groups in society who do not have a strong position in the economic or social strata.

2. Legal Basis for the Protection of Women

The divorce rate in Batang Regency is quite high. This is directly proportional to the high number of women in conflict with the law. The Supreme Court of the Republic of Indonesia issued Supreme Court Regulation of the Republic of Indonesia Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law in Jakarta, on August 4, 2017. This

regulation became the initial milestone for the protection of women's rights in the judicial world in Indonesia. This was then followed by the issuance of a Supreme Court Circular Letter (SEMA) concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court, including:

- a. Circular Letter of the Supreme Court of the Republic of Indonesia Number 1 of 2017

In order to implement Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law to provide legal protection for women's rights after divorce, the payment of obligations due to divorce, especially iddah, mut'ah, and madliyah maintenance, can be included in the verdict with the sentence to be paid before the pronouncement of the divorce vow. The divorce vow can be carried out if the wife does not object to the husband not paying the obligation at that time.

- b. Circular Letter of the Supreme Court of the Republic of Indonesia Number 3 of 2018

- 1) Madhiyah living, iddah living, mut'ah, and child living

Perfecting the formulation of the Religious Chamber in the Circular Letter of the Supreme Court Number 07 of 2012 number 16 so that it reads: "The judge in determining madhiyah maintenance, iddah maintenance, mut'ah, and child maintenance, must consider the sense of justice and propriety by exploring the facts of the husband's economic capabilities and the facts of the basic living needs of the wife and/or children."

- 2) Husband's obligations due to divorce towards a wife who is not nusyuz
Accommodating Perma Number 3 of 2017 concerning Guidelines for Adjudicating Women's Cases in Conflict with the Law, wives in contested divorce cases can be given mut'ah, and 'iddah maintenance as long as it is not proven nusyuz.

Other protection instruments for women are regulated in Article 152 which stipulates that "a former wife has the right to receive iddah maintenance from her ex-husband unless she is nusyuz" and is regulated in Article 149 of the Compilation of Islamic Law with the guarantee of several women's rights, including:

- a. Giving appropriate mut'ah (gifts/gifts) to ex-wives in the form of money or objects, unless the ex-wife is qabla al-dukhul;
- b. Providing living expenses, maskan (residence) and kiswah (clothing) to the ex- wife while in "iddah, unless the ex-wife has been sentenced to talak ba`in or nusyuz and is not pregnant;
- c. The dowry that is still owed is paid in full and half if qabla al-dukhul;

The existence of the SEMA-SEMA is a crucial instrument in supplementing the law when there are gaps or legal gaps, in order to expedite the judicial process in facing dynamic and often complex legal challenges. The SEMA serves

as a guideline for judges and court officials in handling cases in court and adapting judicial practices to the evolving needs of society.¹

3. Ex-Officio Authority of Judges

In principle, judges are required to adjudicate all parts of the claim and are prohibited from issuing a decision on a case that is not demanded or granting more than what is demanded (Article 178 paragraph (2) and (3) HIR, 189 paragraph (2) and (3) RBg). There is a prohibition called the ultra petitem principle, namely a judge who grants more than the posita or petitem of the lawsuit is considered to have acted beyond his authority (*ultra vires*). If a decision contains *ultra petitem*,

to be able to issue something that is not requested in the petitem/demand to be issued in a decision, especially in divorce cases, but in the application of judicial power, there are limitations and limitations in the use of this power so that there is no excess of power/authority (*excès de pouvoir*). The nature of the judge's freedom of power is not absolute, the judge's freedom is limited and relative with several references:

- a. Applying the law derived from appropriate and correct statutory regulations in resolving cases under review;
- b. Interpreting the law appropriately through a justice-based approach rather than statutory regulations, if the provisions of the law do not potentially protect the public interest. Such application is in accordance with the doctrine of equity must prevail.²

Methods

This research was conducted at the Class 1B Batang Religious Court, an institution mandated by Law Number 48 of 2009 concerning Judicial Power. In carrying out its duties to uphold law and justice, it must meet the expectations of justice seekers who always desire simple, fast, accurate, and low-cost justice. The Batang Religious Court is located at Jl. KH Achmad Dahlan No. 62B, Bogoran, Kauman, Batang District, Batang Regency, Central Java, under the jurisdiction of the Semarang High Religious Court, covering 15 (fifteen) districts. This research provides insight into strategies for fulfilling women's rights in the decisions of the Panel of Judges at the Religious Court, particularly in divorce cases. The research method used was a descriptive qualitative approach, with data collection techniques through observation and in-depth interviews, to gain a deeper understanding of the development of the fulfillment of women's rights in the Batang Religious Court from 2020 to 2024. Several cases were used to present the reasons and motivations driving the fulfillment of women's rights.

The data includes the judges' considerations in their decisions and the role of the Chief Justice of the Batang Religious Court in realizing the fulfillment of women's rights in the Batang Religious Court. Data on the progress of the fulfillment of women's rights in the Batang Religious Court from 2020 to 2024 is used to further contextualize the best strategies for realizing the fulfillment of women's rights in the decisions of the Religious Court Panel of Judges. For this

study, data were first collected through a secondary data review. In-depth interviews were then conducted with the Chief Justice of the Batang Religious Court as the primary informant, providing the researcher with information on the fulfillment of women's rights in the Religious Court during his tenure as Chief Justice of the Batang Religious Court. All of this data was then used for analysis. Data analysis was conducted through data reduction, data presentation, and inductive conclusion drawing.

Results and Discussion

Women are particularly vulnerable and potentially vulnerable to violence caused by gender bias. Gender bias is frequently found in marriage, where women are often placed in a weaker legal position than men, thus directly contributing to the potential for men to mistreat women, particularly in the economic sector. The Preamble to the 1945 Constitution of the Republic of Indonesia, Article IV, states that one of the goals of the Indonesian state is "to advance general welfare," implying that Indonesia is a welfare state. This implies that the Indonesian government must provide constitutional protection, from guaranteeing individual rights to procedural procedures for obtaining such protection.

Article 1 of Law Number 1 of 1974 concerning Marriage stipulates that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the belief in the One Almighty God. Article 1 of Law Number 1 of 1974 concerning Marriage stipulates that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God. Allah created humans in pairs to create peace, love, and affection in marital relations, as a sign of His greatness for those who think. This is as stated in Surah Ar-Rum verse (21) which reads:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ
مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ ﴿٢١﴾

Meaning: "And among the signs (of His greatness) is that He created mates for you from your own kind, so that you would be inclined and feel at ease towards them, and He created among you a feeling of love and affection. Indeed, in this there are indeed signs (of the greatness of Allah) for a people who think"

Due to the noble purpose of marriage, every married couple is expected to maintain harmony and harmony in their household, preventing it from ending in divorce. Divorce is a permissible act but is greatly hated by Allah SWT, as narrated by Abu Dawud, the Prophet, which reads: "The permissible act that is most hated by Allah is talaq (divorce)." However, many household problems drag on and result in divorce.

Article 113 of the Compilation of Islamic Law stipulates that a marriage can be dissolved by death, divorce, or court decision. There are two types of divorce in Islamic law: divorce by petition and divorce by talaq. Divorce by talaq is a divorce filed by the husband by declaring his divorce before the Religious Court. The husband has obligations that are the rights of the wife after the divorce, including:

1. The right to maintenance, maskan, and kiswah. Etymologically, the word "nafkah" comes from Arabic, meaning cost, spending, or expenditure in Indonesian;
2. The right to mut`ah. The words mut`ah and dhammah mim (mut`ah) or kasrah (mit`ah) are derived from the root word almata`, meaning something desired;
3. Dowry. According to Islamic law, a dowry is something obligatory upon marriage or union.³

Developments in the Fulfillment of Women's Rights at the Batang Religious

Court from 2020 to 2024

Gustav Radbruch initiated the teaching of the ideal of law (idee des recht) formulating 3 (three) elements of the ideal of law that must be present proportionally, namely legal certainty (rechssicherheit), justice (gerechtigkei), and usefulness (zweckmasigkeit). The formulation of these three elements of the ideal of law is an ingredient in the "mixture" of theories and concepts constructed in realizing justice and which must be built into a judge's legal reasoning in a balanced manner in issuing decisions or verdicts against the parties in the case. The Batang Religious Court as one of the government agencies in the judicial sector has the authority to examine and adjudicate divorce cases in the jurisdiction of Batang Regency in the period 2020 to

2024 receiving cases with data sourced from the Case Tracking Information System

(SIPP) of the Batang Religious Court as follows:

Year	Case Accepted	Divorce Case Accepted	Divorce Case with Support from the Ex-Wife	Percentage of Fulfillment of Women's Rights
2024	2.085 Case	311 Case	1. Iddah total 179 Case 2. Madhiyah total 11 Case	61,1%
2023	2.280 Case	361 Case	1. Iddah total 183 Case 2. Mut`ah total 4 Case 3. Madhiyah total 8 Case	54%
2022	2.540 Case	455 Case	1. Iddah total 106 Case 2. Mut`ah total 18 Case 3. Madhiyah total 8 Case	29%
2021	2.452 Case	464 Case	1. Iddah total 145 Case 2. Mut`ah total 18 Case 3. Madhiyah total 16 Case 4. Maskan total 1 Case 5. Kiswah total 1 Case	39%

2020	2.498 Case	464 Case	1. Iddah total 42 Case 2. Madhiyah total 4 Case	9,9%
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Based on the table above, the increase in the percentage of women's rights

fulfillment in divorce cases at the Batang Religious Court began in 2021. This increase began with the issuance of Circular Letter No. 1960/DjA/HK.00/6/2021 from the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia, dated June 18, 2021, concerning guarantees for the fulfillment of women's and children's rights after divorce, along with an attachment containing a template (blank/form) for a divorce lawsuit or divorce petition, which outlines the rights of women and children after the divorce.

According to Mr. Ikin, S.Ag., Judge of the Batang Religious Court, who also serves as Chief Justice, the Batang Religious Court initiated internal outreach on the inclusion of the applicant's occupation and income in divorce cases. Each Batang Religious Court official was educated about PERMA Number 3 of 2017 and its implementing regulations. Subsequent outreach targeted the Batang Religious Court's partner, the Legal Aid Post (Posbakum). Face-to-face outreach efforts are aimed at professional advocates in Kendal-Batang-Pekalongan Regency who regularly litigate at the Batang Religious Court. In addition, all forms of women's rights outreach (including children's rights) are disseminated through brochures, standing banners, and social media platforms, including the Batang Religious Court's website, Instagram, and YouTube.

The amount of alimony required of a husband is determined by the judge, taking into account his abilities, age, and physical condition. If the husband is deemed young and physically healthy, and the judge deems him capable of earning a living, even without a permanent job but still earning an income, the judge may still impose the obligation on the husband to fulfill the woman's rights after a divorce. The Batang Religious Court has implemented the mandate of Circular Letter No. 1960/DjA/HK.00/6/2021 of the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia, dated June 18, 2021, concerning guarantees for the fulfillment of women's and children's rights after a divorce. The divorce petition from the applicant (husband) lists the applicant's occupation and monthly income in the divorce petition's position. This inclusion is intended to allow the panel of judges examining the case in question to more wisely consider the extent of the woman's (wife's) rights.

Comparison Before and After the Issuance of Circular Letter of the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia Number 1960/DjA/HK.00/6/2021 dated June 18, 2021 concerning guarantees for the fulfillment of women's and children's rights after divorce

There is a striking difference between the period before and after the issuance of Circular Letter No. 1960/DjA/HK.00/6/2021 of the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia concerning guarantees for the fulfillment of women's and children's rights after divorce. This difference lies in the composition of the *posita* (position) of the petitioner's divorce

petition. Before the issuance of the aforementioned circular, the posita in the petition for divorce did not include the applicant's occupation or monthly income. After the issuance of the aforementioned circular, the posita in the petition for divorce definitely includes the applicant's occupation and monthly income. Here is one example of the difference: Before the 64/Pdt.G/2020/PA.Btg;

❖ **ABC bin DEF** as Applicant and **GHI binti JKL** as Respondent;

SEMA Director General of Badilag Exits	<ul style="list-style-type: none"> ❖ The reason for divorce is continuous disputes and arguments; ❖ Posita there is no information about the applicant's job and the amount of income the applicant receives each month.; ❖ Petikum : <ol style="list-style-type: none"> 1. Accept and grant the Petitioner's request; 2. Grant permission to the Petitioner (ABC bin DEF) to pronounce divorce against the Respondent (GHI binti JKL) before the Batang Religious Court; 3. Order the Respondent to pay court costs in accordance with applicable law; 4. And/or issue the fairest possible decision; ❖ Verdict: <ol style="list-style-type: none"> 1. Declaring that the Respondent, who had been officially and properly summoned to appear in court, was not present; 2. Granting the Petitioner's request by default; 3. Granting permission to the Petitioner (ABC bin DEF) to pronounce a one-year divorce against the Respondent (GHI binti JKL) before the Batang Religious Court. 4. Charging the Petitioner to pay court costs in the amount of Rp 641,000.00 (six hundred forty-one thousand rupiah); ❖ Notes <p>In all divorce cases where default judgments were issued, the applicant was not burdened with fulfilling women's rights after the divorce. Throughout 2020, women's rights after the divorce were only granted when the wife, the Respondent, attended the court hearing;</p>
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<p>Setelah SE Dirjen Badilag Keluar</p>	<ul style="list-style-type: none"> ❖ 1866/Pdt.G/2023/PA.Btg; ❖ MNO bin PQR as Applicant and STU binti VWX as Respondent; ❖ The reason for divorce is continuous disputes and arguments; ❖ Posita number 9 states that "That by submitting this Divorce Application, the Applicant who works as a Casual Daily Laborer, is able to pay Mut'ah of Rp. 500,000,- (five hundred thousand rupiah) and based on the Compilation of Islamic Law article 149 letter (b) because the Respondent is Nusyuz, the Applicant is not obliged to provide iddah maintenance"; ❖ Petitum : <ol style="list-style-type: none"> 1. Grant the Petitioner's petition; 2. Declare that the marriage between the Petitioner (MNO bin PQR) and the Respondent (STU binti VWX) is dissolved due to divorce by way of a single divorce decree; 3. Order the Petitioner to pay Rp. 500,000 (five hundred thousand rupiah) in compensation; 4. Determine the costs of this case in accordance with applicable laws and regulations;
	<ol style="list-style-type: none"> 1. Declaring that the Respondent, who had been officially and properly summoned to appear in court, was not present; 2. Granting the Petitioner's request by default; 3. Granting permission to the Petitioner (MNO bin PQR) to pronounce a one-year divorce against the Respondent (STU binti VWX) before the Batang Religious Court; 4. Ordering the Petitioner to provide a mut'ah (a temporary payment of Rp1,000,000.00) to the Respondent immediately before the divorce declaration was pronounced; 5. Ordering the Petitioner to pay court costs of Rp185,000.00 (one hundred and eighty-five thousand rupiah); <ul style="list-style-type: none"> ❖ Notes Following the issuance of Circular Letter No. 1960/DjA/HK.00/6/2021 of the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia dated June 18, 2021, concerning guarantees for the fulfillment of women's and children's rights after divorce, even if the divorce case is decided by default, the Panel of Judges still considers the rights of the ex-wife after the divorce. If the Respondent appears during the trial, the Panel of Judges will be more discerning in considering women's rights after the divorce.;

The judges of the Batang Religious Court after the issuance of the Circular Letter of the Directorate General of the Religious Courts of the Supreme Court of the Republic of Indonesia Number 1960/DjA/HK.00/6/2021 dated June 18, 2021 concerning the guarantee of the fulfillment of the rights of women and children after divorce in

adjudicating divorce cases attempted to place the law as a whole based on the benefits of the decision not only for the Applicant but also the Respondent even though the Respondent never appeared in court. The considerations of the panel of judges examining case number 1866/Pdt.G/2023/PA.Btg, considered the following:

Considering that the Petitioner is, in conclusion, willing to provide mut'ah in the form of Rp1,000,000.00 (one million rupiah) to the Respondent, the Panel of Judges will therefore consider the following:

Considering that Allah SWT states in Surah al-Baqarah, verse 241, which means: "And to divorced women (their husbands should give) mut'ah according to what is right, as an obligation upon the pious";

Considering that Article 149 letter a of Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Compilation of Islamic Law states that a former husband is obligated to provide reasonable mut'ah to his former wife, either in the form of money or property, unless the former wife is qobla al dukhul;

Considering that the obligation to grant mut'ah is not related to whether a wife is nusyuz or not, but rather is related to ba'da al dukhul or qobla al dukhul, and the Panel considers that based on the Petitioner's argument in point 3 that the Petitioner and the Respondent have had marital relations (ba'da al dukhul), the Respondent is entitled to receive mut'ah from the Petitioner;

Considering that the Petitioner is in conclusion able to provide mut'ah in the form of money in the amount of Rp1,000,000.00 (one million rupiah), then by taking into account the Petitioner's occupation and the length of time they have lived together as husband and wife, the Panel of Judges should sentence the Petitioner to grant mut'ah in the form of money in the amount of Rp1,000,000.00 (one million rupiah) to the Respondent;

1. Progressive Law Practice

Based on these considerations, it can be emphasized that the Panel of Judges provided justice for the Petitioner in terms of iddah maintenance, where the Respondent was proven to be a nusyuz wife and therefore was not entitled to iddah maintenance from the Petitioner. The Judges of the Batang Religious Court began to realize the ideals of law in divorce cases more progressively than other Religious Courts. Based on Satjipto Rahardjo's progressive legal theory, the Judges of the Batang Religious Court were guided by the provisions of Supreme Court Regulation Number 3 of 2017 and its derivative regulations by ruling holistically, not skeletally. The Panel of Judges considered the Petitioner's occupation and the length of time they lived together as husband and wife in imposing the sentence of mut'ah maintenance for the Respondent against the Petitioner, which can be embodied as a progressive legal practice in the courts.

2. Legal Basis Used in the Panel of Judges' Considerations in Decision Number 1866/Pdt.G/2023/PA.Btg Relating to Women's Rights Post-Trial

The consideration of the panel of judges in decision number 1866/Pdt.G/2023/PA.Btg uses legal basis including, first, PERMA Number 3 of

2017 and SEMA Number 1 of 2017 with the consideration "considering, that the Petitioner's obligation for mut'ah as explained above, then to protect the rights of women after divorce by paying attention to PERMA Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law and SEMA Number 1 of 2017, the Panel of Judges should sentence the Petitioner to pay the obligation for mut'ah before pronouncing the divorce oath before the Batang Religious Court hearing." Second, Article 149 letter b of Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Compilation of Islamic Law with the consideration that reads "considering, that in Article 149 letter b of Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Compilation of Islamic Law it is stated that if a marriage ends due to divorce, the former husband is obliged to provide maintenance, maskan and kiswah to the former wife during the iddah period, unless the former wife has been sentenced to divorce ba'in or nusyuz and is not pregnant" and the consideration reads "considering, that the Petitioner stated that the Respondent is a nusyuz wife and in the trial the Petitioner with the testimony of two witnesses presented by the Petitioner has proven that the Respondent is a nusyuz wife, therefore the Panel of Judges considers that the Respondent is a nusyuz wife therefore the Respondent is not entitled to iddah maintenance from the Petitioner". The imposition of a sentence on the Petitioner to provide mut'ah maintenance to the Respondent in decision number 1866/Pdt.G/2023/PA.Btg is an ex officio right of the panel of judges examining the a quo case without violating the ultra petita principle and not exceeding the limits of its authority (ultra vires). The panel of judges examining the a quo case applies the law originating from 2 regulations, namely PERMA Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law and SEMA Number 1 of 2017 as a whole as well as the provisions of Article 149 letter b of RI Presidential Instruction Number 1 of 1991 concerning Compilation of Islamic Law. The panel of judges examining the a quo case sentenced the Petitioner to mut'ah maintenance for the Respondent and did not impose a sentence of iddah maintenance on the Petitioner because the Respondent was proven to be a nusyuz wife, which is a practice of the doctrine of equity must prevail which is in the form of a panel of judges' decision..

Obstacles and Challenges Faced

The implementation of the regulations on the fulfillment of women's rights, which have been systematically implemented, certainly faced obstacles and challenges at the beginning of its enforcement. Based on an interview with Mr. Ikin, S.Ag., as Chairman of the Batang Religious Court, at the beginning of the enforcement of the law protecting women's rights after divorce, attempts emerged from divorce petitioners or their legal representatives (professional advocates) to avoid fulfilling women's rights after divorce, for example, by formatting divorce petitions with the word nusyuz. The word nusyuz in the posita violates the rules in posita because posita does not contain punishment but contains facts. Therefore, when the petitioner states that the respondent is nusyuz in the posita, it is an error because

the petitioner has constituted facts that have not been tried. Posita should state the *fundamentalum petendi* but instead makes a declaration that the respondent is *nusyuz*. At the beginning of the month, adjustments were made. Mr. Ikin, S.Ag., when he was chairman of the case examination panel, stated that “*on behalf of the Head of the Batang Religious Court, based on judicial authority, he is permitted to direct various efforts to expedite the course of the trial, including ensuring that there are no obstacles in the implementation of law enforcement to fulfill women's rights after divorce.*”.

An interview with Mr. Ikin, S.Ag., also obtained information about the obstacles faced by legal aid service post (*posbakum*) officers, namely that sometimes the applicant feels burdened by various obligations when divorcing the respondent and often encounters applicants who are not open about the amount of their monthly income. In addition, Mr. Ikin, S.Ag., also conveyed the existence of legal standards regarding the propriety and appropriateness of providing alimony to the respondent. The background to the need to write the applicant's occupation and the amount of the applicant's income in the *posita* of the divorce petition is because the Religious Courts (*Badilag*) observes the quality and ability of the applicant is not explored in detail in the trial so that the output of the decision in granting alimony to the respondent is uniform (average between applicant I and applicant II who have different jobs and different incomes). For applicants whose jobs are more secure, they are given a burden of alimony of Rp. 500,000, - but for applicants who work odd jobs are also burdened with the obligation of alimony in the same amount. Therefore, after *Badilag* provided guidance to all judges in the Religious Courts, the judges further explored the potential ability of the applicant to fulfill women's rights after divorce. In Batang Regency, the applicant divorced the respondent because the applicant was unable to provide maximum support for the respondent while living as husband and wife. The inclusion of the applicant's occupation and the amount of the applicant's income in the *posita* was used as a benchmark for the panel of judges to further explore the applicant's ability and capability to provide the respondent's rights. In divorce cases, it is important to ensure whether the applicant is still communicating with the respondent or the respondent's family, so that the respondent is informed that the respondent is entitled to support from the applicant. Each panel of judges needs to make a decision that is not only based on procedural legal standards, but also provides benefits.

Maintaining the Rhythm and System of Law Enforcement for the Protection of Women's Rights Post-Trial

An interview with Mr. Ikin, S.Ag., revealed how the leadership of the Batang Religious Court maintains the rhythm and system of law enforcement for the protection of women's rights after divorce. The leadership created a coffee morning tradition (with participants including the Deputy Chief Justice, Judges, Clerks, Secretaries, Junior Clerks, and Heads of Subdivisions) that discussed various issues, not only material law or procedural law, but also an opportunity to socialize the latest regulations. Coffee morning also serves as a forum for participants to channel information, including for conveying strategies or policy directions of the leadership. Clerks and Junior Clerks are important participants in coffee morning because, as the lowest level superiors, they gradually convey information on leadership policies to their

subordinates in a separate system, namely a briefing scheduled every Wednesday. This system is one effort to maintain the rhythm and system of law enforcement for the protection of women's rights after the trial. In addition to these two systems (coffee morning and briefing), there is also a legal discussion system with a larger number of participants, namely all technical staff, including for the sustainability of positive changes that have been established, including regarding the enforcement of legal protection for women's rights after divorce.

Conclusion

This study found that the issuance of Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law in Jakarta on August 4, 2017, has not yet benefited women after divorce. The success rate of fulfilling women's rights after divorce only increased when the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia issued Circular Letter Number 1960/DjA/HK.00/6/2021 dated June 18, 2021, concerning guarantees for the fulfillment of women's and children's rights after divorce. One of the provisions includes a template (blank/form) for a divorce petition stating the applicant's occupation and monthly income.

At the beginning of enforcing the law protecting women's rights after divorce, the Batang Religious Court faced many challenges. However, with strong efforts and determination to protect women's rights after divorce, the Batang Religious Court began issuing decisions granting these rights in 2021 and continues to this day. Although the Batang Religious Court continues to face attempts by applicants to avoid granting women their post-divorce rights, citing the respondent's presumptive status as *nusyuz*, the Batang Religious Court continues to uphold the law protecting women post-divorce. The mechanism implemented by the Batang Religious Court to maintain consistency in its decisions that protect women post-divorce includes a monthly coffee morning system attended by the Chairperson, Deputy Chairperson, Judges, Court Clerk, Secretary, Junior Clerk, and Sub-Division Heads, as well as a staff briefing system every Wednesday. This ensures that all leadership policy directions and strategies can be implemented in a harmonious and comprehensive manner as a unified organization.

Therefore, this study offers insights that can be observed, emulated, and modified by other Religious Courts in their efforts to realize the fulfillment of women's rights post-divorce, namely by consistently enforcing Supreme Court Regulation No. 3 of 2017 and its derivative regulations through a strong internal system. Empirically, this study demonstrates the need to broaden public understanding by utilizing cases from individuals with diverse sociocultural backgrounds who are involved in divorce proceedings in Religious Courts. Conceptually, this study on the development of the fulfillment of women's rights after divorce in the Batang Religious Court uses the internal perspective of the Batang Religious Court apparatus. This study is limited to the results of interviews with the Head of the Batang Religious Court as the sole source of information and therefore cannot provide a comprehensive assessment of the enforcement of the law

protecting women's rights after divorce in Indonesia. The differences in direction and strategy of each Head of the Religious Court in Indonesia must be considered because this aspect affects the effectiveness of Supreme Court Regulation Number 3 of 2017 by the court as a law enforcement agency. Future studies should use a sample population of women in conflict with the law who are parties to the case as protected subjects, as this will provide a comprehensive picture of the fulfillment of women's rights after divorce.

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