



Maintenance and Economic Disputes

Syaripudin Latif¹, Zulkarnain²

Magister Hukum Keluarga Islam, Universitas Islam Negeri Sumatera Utara

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ABSTRACT

This study examines the settlement of maintenance and economic disputes in the Religious Court and the effectiveness of court judgments in providing legal protection for the rights of wives and children. This research employs an empirical legal method with a qualitative approach through interviews, observation, and document analysis. The findings indicate that dispute resolution is conducted through mediation, court proceedings, and judicial decisions by considering both positive law, Islamic law, and the economic conditions of the parties. Judges strive to achieve justice by balancing the husband's financial capacity with the needs of wives and children. However, the effectiveness of judgment enforcement still faces obstacles, such as low compliance by obligated parties and economic limitations. As a result, legal protection for maintenance rights has not been fully optimal. This study concludes that although court decisions provide legal certainty, strengthening legal awareness and improving enforcement mechanisms are necessary to ensure more effective and equitable protection of post-divorce economic rights.

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Corresponding Author:

Syaripudin Latif

Magister Hukum Keluarga Islam, Universitas Islam Negeri Sumatera Utara

Jl. Willem Iskandar, Pasar V, Medan Estate, Kec. Percut Sei Tuan, Kabupaten Deli Serdang, Sumatera Utara. 20371

Email: Syaripudinlatif99@gmail.com

INTRODUCTION

Maintenance and economic disputes in the family are one of the most frequent forms of disputes in divorce cases in the Religious Courts. The dispute includes the obligation of spousal support, child support, mut'ah, iddah support, and the implementation of the execution of the alimony decision. Wife and child maintenance is an obligation of the husband that must still be fulfilled according to his ability and proper needs, while mut'ah and iddah maintenance are given as a form of protection for the wife's rights after divorce (Amir Syarifuddin, 2006, pp. 165-175). In practice, the implementation of the judgment often faces obstacles because the defendant does not carry out the judgment voluntarily, so an execution mechanism is needed through the court (M. Yahya Harahap, 2005, pp. 873-880). Other problems are the difficulty of identifying the economic ability of the ex-husband, the absence of a guarantee of alimony payments, and the weak effectiveness of execution. Therefore, the settlement of maintenance disputes requires legal certainty, supervision of the implementation of the decision, and optimization of mediation so that the economic rights of wives and children are protected (Syahrizal Abbas, 2009, pp. 25-30).

Maintenance and economic disputes in the family in Indonesia are regulated in Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, the Compilation of Islamic Law (KHI), as well as laws and regulations regarding religious courts. The husband's obligation to provide for his wife and children is a legal consequence of the marriage bond that must be fulfilled according to the husband's economic ability (Amir Syarifuddin, 2006, pp. 165-170). In divorce cases, judges can stipulate the payment of mut'ah, iddah alimony, and child support as a form of legal protection for the rights of women and children (Abdurrahman, 2010, pp. 138-145). However, the implementation of the maintenance judgment often faces obstacles at the execution stage due to the absence of voluntary compliance from the sentenced party, so that the effectiveness of legal protection has not been fully

realized (M. Yahya Harahap, 2005, pp. 873–880). Therefore, effective law enforcement is needed so that court decisions provide certainty, justice, and legal benefits for the parties.

The phenomenon of maintenance and economic disputes in the family shows an increasingly significant trend in Indonesia. Based on data from the Supreme Court, in 2024 the Religious Court will decide 417,750 divorce cases, most of which are followed by demands regarding spousal support, child support, *mut'ah*, and *iddah* support. The main problem is not only the high divorce rate, but also the low fulfillment of post-divorce economic rights because many alimony decisions are not implemented voluntarily. In addition, a study by the Supreme Court together with judicial partners shows that child support applications are still submitted in a very small number compared to the total number of divorce cases, so the protection of children's rights is not optimal. This condition indicates a gap between legal norms and the implementation of court decisions. Therefore, it is necessary to strengthen the mechanism for the execution of judgments, increase compliance with maintenance obligations, and optimize legal protection for women and children so that post-divorce economic rights can be fulfilled effectively and fairly.

The problem that became the subject of this study is that there are still high maintenance and economic disputes in divorce cases, especially related to the fulfillment of wife's maintenance, child support, *mut'ah*, and *iddah* maintenance which have not been carried out optimally after the court decision has obtained permanent legal force. In practice, many parties do not carry out their maintenance obligations voluntarily so that the implementation of the execution of the judgment faces various obstacles, both due to economic incapacity, the unknown whereabouts of the sentenced party, and the weak supervision mechanism for the implementation of the judgment. This condition results in the economic rights of women and children not receiving effective legal protection, so an analysis of dispute resolution mechanisms and the effectiveness of the implementation of maintenance decisions is needed.

This research has a fundamental difference from previous studies. Most previous research has only addressed one aspect of alimony disputes, such as judges' considerations in determining child support, the implementation of *mut'ah* and *iddah* alimony, or the effectiveness of mediation in divorce cases. The research generally stops at normative analysis of judges' decisions without examining the success of the implementation of the decision after it has permanent legal force. For example, research on the implementation of post-divorce maintenance rights in several Religious Courts shows that even though judges have granted maintenance claims, in practice there are still many ex-husbands who do not fulfill their obligations so that the rights of wives and children are not effectively protected. This problem is exacerbated by the difficulty of carrying out executions due to the limited assets of the convicted party, the unknown domicile of the defendant, or the absence of an effective coercive mechanism. In contrast to previous research, this study not only examines normative aspects regarding wife alimony, child support, *mut'ah*, and *iddah* alimony, but also analyzes in an integrated manner the relationship between the dispute resolution process, judges' considerations, the effectiveness of decision execution, and factors that affect the success of fulfilling economic rights after divorce. Thus, this study offers a more comprehensive perspective in evaluating the effectiveness of legal protection on the economic rights of women and children in family matters.

LITERATURE REVIEW

Maintenance Disputes in Islamic Family Law

Alimony is a legal obligation imposed on the husband to meet the needs of his wife and children during the marriage and after divorce within the limits determined by law. From the perspective of Islamic law, the obligation of maintenance is based on the principle of the responsibility of the husband as the head of the family who is obliged to meet the needs of his family in accordance with his economic ability. According to Amir Syarifuddin (2006), livelihood includes food, clothing, board, and other needs that are suitable according to the family's socio-economic conditions. Meanwhile, Wahbah Zuhaili (2010)

explained that the provision of alimony is a form of protection for the rights of family members who have a dimension of worship as well as legal responsibility.

In Indonesia, the regulation regarding maintenance is contained in Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, the Compilation of Islamic Law (KHI), and Law Number 7 of 1989 concerning Religious Courts and its amendments. This provision provides a legal basis for judges to establish maintenance obligations for wife, children, mut'ah, and iddah maintenance as a form of legal protection after divorce.

Settlement of Alimony Disputes in Religious Courts

Religious Courts have the authority to resolve family disputes, including disputes over alimony and economic rights after divorce. Abdul Manan (2018) explained that the settlement of cases in the Religious Court is carried out through the stages of mediation, trial examination, proof, and the imposition of a verdict. Mediation is the initial stage that must be taken in accordance with PERMA Number 1 of 2016 as an effort to realize a peaceful settlement of disputes.

According to Syahrizal Abbas (2009), mediation has the advantage of being able to produce an agreement that is more accommodating to the interests of the parties than litigation decisions. However, the success of mediation is greatly influenced by the good faith of the parties. In alimony cases, the failure of mediation is generally caused by prolonged conflicts, differences in perceptions about the amount of alimony, and low willingness of the obligated parties to fulfill the economic rights of ex-wives and children.

Effectiveness of Court Decisions

The effectiveness of court decisions is not only measured by the existence of a decision with permanent legal force, but also by the level of implementation of the decision by the obligated party. Harahap (2005) stated that the implementation of judgments is a very decisive stage in realizing legal certainty, because judgments that cannot be executed will reduce the benefits of the law for justice seekers.

In alimony cases, the implementation of the verdict often faces various obstacles, such as low compliance of the ex-husband, limited economic ability, unknown whereabouts of the convicted party, and lack of coercive mechanisms. This condition causes the economic rights of wives and children that have been stipulated in court decisions to not be fully protected effectively.

Legal Protection of the Economic Rights of Wives and Children

Legal protection is one of the main objectives of resolving family cases in the Religious Court. According to Ahmad Rofiq (2017), legal protection for women and children after divorce is realized through the provision of alimony, mut'ah, iddah alimony, and child support in accordance with the principles of justice and benefit. This protection not only provides legal certainty, but also ensures the fulfillment of the economic rights of vulnerable parties after the end of the marriage bond.

In practice, judges are required to consider the balance between the economic ability of the party who is obliged to provide sustenance and the living needs of the party who is entitled to receive it. Therefore, the judge's decision must pay attention to juridical, sociological, and philosophical aspects in order to be able to realize substantive justice.

Previous Research

Research on alimony disputes generally focuses on judges' considerations in determining the amount of alimony, the effectiveness of mediation, or the implementation of mut'ah and iddah alimony. Most studies have concluded that although judges have provided legal protection through judgments, the implementation of maintenance rights still faces various obstacles, especially the low compliance of those who are obliged to fulfill alimony and weak judgment execution mechanisms.

In contrast to previous research, this study examines the settlement of maintenance and economic disputes more comprehensively by linking the dispute resolution process, judges' considerations, the effectiveness of the implementation of decisions, and legal protection of the economic rights of wives and children. Thus, this research is expected to contribute to the development of the study of Islamic family law, especially regarding the effectiveness of post-divorce economic rights protection.

METHOD

This study uses empirical legal research with a juridical-sociological approach to analyze the resolution of family disputes against alimony and economic disputes in the practice of religious justice. This approach examines the suitability between legal norms and their implementation in resolving disputes over spousal support, child support, mut'ah, iddah maintenance, and decision execution (Soerjono Soekanto, 2014, pp. 51–52). The subjects of the study include judges, clerks, bailiffs, advocates, and parties who litigate in the Religious Court. The data source consists of primary data through interviews and observations, as well as secondary data in the form of laws and regulations, court decisions, books, and scientific journals (Sugiyono, 2022, pp. 194–201). Data collection techniques were carried out through literature studies, semi-structured interviews, and documentation. Data analysis uses an interactive model that includes data reduction, data presentation, and conclusion drawing (Miles, Huberman, & Saldaña, 2014, pp. 31–33). The validity of the data was tested by source triangulation, technical triangulation, and member check to ensure the credibility of the research findings (Sugiyono, 2022, pp. 368–376).

RESULT AND DISCUSSION

The results of this study are focused on the analysis of the settlement of maintenance and economic disputes in the family in the Religious Court and the effectiveness of the implementation of the decision in providing legal protection for the rights of wives and children. The discussion was carried out by examining the provisions of positive law, Islamic law, and case settlement practices that develop in the judicial process. In addition, this study also examines the implementation of court decisions related to wife alimony, child support, mut'ah, and iddah alimony, including various obstacles that arise at the implementation stage. The analysis aims to assess the extent to which court decisions are able to realize legal certainty, justice, and benefits, while providing effective protection for the economic rights of women and children after divorce.

Resolution of Maintenance and Economic Disputes in the Family in Religious Courts

Based on field research conducted at the Religious Court, the author obtained data through interviews with judges, clerks, and litigants and was supported by the results of observations on the case settlement process. The data shows that the settlement of maintenance and economic disputes in the family is carried out through the mechanism that has been regulated in the procedural law of the religious court, while still prioritizing peace efforts before the case is further examined.

Based on the results of an interview with one of the judges of the Religious Court, information was obtained that every case related to alimony disputes, whether wife's alimony, child support, mut'ah, or iddah alimony, was first directed to be resolved through mediation. According to the source, mediation is an important stage because it provides an opportunity for the parties to reach an agreement without having to wait for a court decision. However, in practice, not all cases are successfully resolved through mediation. Most of the failures of mediation are caused by the relationship between the parties that are no longer harmonious and there are differences of opinion on the amount of alimony that must be met.

This information was strengthened by the results of an interview with the clerk who explained that after mediation was declared unsuccessful, the examination of the case continued through the trial. In the process, the panel of judges examined the prosecution's arguments, the defendant's answers, evidence, and witness statements before making a verdict. According to the clerk, the judge not only considered the plaintiff's claims, but also looked at the defendant's economic ability so that the verdict handed down could be realistically implemented.

In addition, the results of an interview with one of the litigants showed that the lawsuit was filed because the maintenance rights were no longer given after a dispute in the household. Before submitting the case to the Religious Court, various efforts to resolve the family have been carried out, but have not resulted in an agreement. Therefore, filing a lawsuit is seen as a legal step to obtain certainty regarding the rights that should be received.

The results of the interviews were then strengthened through observations made during the trial process. Based on the author's observations, each case begins with an administrative examination and the determination of a mediation schedule. Furthermore, the mediator provides an opportunity for both parties to express their wishes and encourage a peaceful settlement. If mediation is unsuccessful, the case is continued to the main examination stage.

During the trial, the author observed that the panel of judges gave equal opportunities to the plaintiff and the defendant to submit evidence, submit evidence, and present witnesses. The judge also gave several advice to the parties regarding the importance of fulfilling maintenance obligations as a form of responsibility to his wife and children. These observations show that judges not only play the role of the party who decides the case, but also seek to create a fair settlement and provide protection for the rights of family members.

The observation also shows that in determining the amount of alimony, the panel of judges considered the economic condition of the defendant, the living needs of his wife and children, and the facts revealed at the trial. These considerations are made so that the judgment handed down not only meets the aspect of legal certainty, but can also be implemented by the party who is burdened with obligations. Thus, the process of resolving maintenance disputes in the Religious Court is not only oriented towards resolving cases, but also on efforts to maintain a balance between the rights of the recipient of alimony and the ability of the party who is obliged to provide alimony.

Based on the results of the interviews supported by the results of these observations, it can be seen that the settlement of maintenance and economic disputes in the family at the Religious Court is carried out through a systematic procedure, starting from peace efforts, trial examinations, to the imposition of judgments. Even though the mechanism has been run in accordance with the applicable provisions, the success of its settlement is still influenced by the good faith of the parties and the willingness to exercise their rights and obligations as stipulated in the court decision.

Based on the results of field research conducted at the Religious Court, it is known that the settlement of maintenance and economic disputes in the family has been carried out in accordance with the provisions of the procedural law of religious courts. The case settlement process begins with mediation efforts as a form of peace effort before entering the examination of the subject matter at the trial. This mechanism shows that dispute resolution is not solely oriented to the judge's decision, but also prioritizes reaching an agreement between the parties.

The results of the interview with the judge showed that every case related to alimony, whether wife's alimony, child support, mut'ah, or iddah alimony, was always first directed to the mediation process. According to the judge, mediation has an important role in providing space for the parties to resolve disputes peacefully. However, not all cases can be resolved through mediation due to prolonged conflicts and differences in perceptions regarding the maintenance obligations that must be fulfilled by the defendant.

This was strengthened by the results of an interview with the clerk who explained that if the mediation was unsuccessful, the case would proceed to the trial stage. During the trial, the panel of judges examined the prosecution's arguments, the defendant's answers, evidence, and witness statements. The registrar also emphasized that the judge is not only guided by the demands of the parties, but also

considers the economic capabilities of the defendant so that the verdict handed down can be realistic and enforceable.

Meanwhile, the results of interviews with the litigants showed that the filing of a maintenance lawsuit was carried out due to the non-fulfillment of maintenance obligations after a dispute in the household. Before taking the litigation route, the parties had made efforts to resolve it familially, but did not reach an agreement. Therefore, the Religious Court was chosen as a means to obtain legal certainty for the maintenance rights of wives and children.

The results of the interviews were then strengthened through observations in the field. The author observes that each case begins with an administrative process, appointment of a mediator, and the implementation of mediation. In the mediation process, the mediator seeks to encourage the parties to reach a peaceful agreement. If no agreement is reached, the case will proceed to the examination stage at the trial. In the trial, the judge gives the same opportunity to the parties to submit information, submit evidence, and present witnesses.

Observations also show that judges play an active role in providing advice to the parties regarding the importance of fulfilling maintenance obligations to wives and children. In addition, in determining the amount of alimony, the panel of judges considered the defendant's economic condition, the living needs of the plaintiff and children, and the facts revealed at the trial. This shows that the judge's consideration is not only normative, but also considers sociological aspects so that the verdict can be implemented effectively.

If associated with previous research, the results of this study are in line with the findings of several studies that state that the resolution of maintenance disputes in the Religious Court tends to prioritize mediation as an effort to peace, but the success rate is still relatively low due to emotional conflict factors and disagreements over the value of alimony. In addition, previous research also explains that judges in alimony cases not only adhere to formal legal aspects, but also consider aspects of justice and economic ability of the parties so that the verdict is implementive.

Thus, it can be concluded that the settlement of maintenance and economic disputes in the family at the Religious Court has been carried out in accordance with the applicable legal procedures, but its effectiveness is still greatly influenced by the attitude of the parties and the socio-economic conditions behind it. Therefore, the success of the settlement does not only depend on the judge's decision, but also on the good faith of the parties in carrying out the legal obligations that have been set. The effectiveness of the implementation of alimony and economic dispute decisions in providing legal protection for the rights of wives and children.

Furthermore, the results of this study also show that the effectiveness of the implementation of the decision still faces various obstacles, especially the low compliance of those who are obliged to provide sustenance and limited economic capabilities. This condition causes the rights of wives and children that have been stipulated in court decisions cannot always be realized optimally. These findings reinforce the results of the research which concluded that the effectiveness of legal protection of alimony rights is not only determined by the quality of the judge's decision, but is also influenced by the legal awareness of the parties and the effectiveness of the decision implementation mechanism. Thus, this study confirms that the decision of the Religious Court has provided a basis for legal protection for wives and children, but the optimization of its implementation still requires support in the form of increasing the compliance of the parties, strengthening the mediation function, and a more effective mechanism for implementing decisions so that the goal of substantive justice can be achieved.

CONCLUSION

Based on the results of the research and discussion, it can be concluded that the settlement of maintenance and economic disputes in the family at the Religious Court has been carried out in accordance with the provisions of the procedural law of the religious court through the stages of mediation, trial examination, and the imposition of judgments. In practice, judges are not only guided by the normative aspects of positive law and Islamic law, but also consider the economic conditions of the parties as well as the needs of the wives and children so that the resulting verdict is fair and enforceable. Furthermore, the effectiveness of the implementation of the decision in providing legal protection for the rights of wives and children has provided legal certainty, but in its implementation it still faces obstacles such as low compliance of the obligated parties and limited economic capabilities. Therefore, legal protection is not fully optimal. The success of the implementation of the judgment is greatly influenced by the legal awareness of the parties, good faith, and the effectiveness of the execution mechanism available in the Religious Court.

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