

## PATTERNS AND DETERMINANTS OF JUDICIAL REASONING IN DECIDING WOMEN ECONOMIC RIGHTS IN RELIGIOUS COURTS

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**Abstract:** This study examines judicial considerations regarding wife's maintenance in marital cases based on an analysis of decisions of the Religious Court of Pekanbaru during the period 2019-2024. The objective of this research is to identify patterns of judicial reasoning in granting or denying wife's maintenance, including normative foundations, the application of the concept of *nushūz*, the use of ex officio authority, the determination of maintenance amounts, and attention to the execution of court decisions. The main argument of this study asserts that decisions on wife's maintenance are not uniform, but are shaped by a combination of legal and factual factors that form specific patterns of judicial consideration. This research employs a normative legal method with a case approach and content analysis of selected court decisions. The findings indicate a shift in judicial practice toward more substantive protection of wives' rights, as reflected in the increasing use of ex officio authority and references to judicial policies. Nevertheless, disparities remain in the proof of *nushūz*, variations in maintenance amounts, and limitations in the effectiveness of decision enforcement. This study argues that the quality of protection for wife's maintenance largely depends on the consistency of judicial reasoning and the design of operative rulings oriented toward enforceability.

**Keywords:** Wife's Maintenance; Religious Court Decisions; Divorce by Lawsuit; Islamic Family Law.

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## Introduction

Wife's maintenance, whether in the form of *nafaqah* during marriage or post decision economic rights such as *nafaqat al-'iddah*, *mut'ah*, *maskan* (housing), and *kiswah* (clothing), constitutes a central issue in marital cases before the Religious Courts, as it lies at the intersection of fiqh norms, positive law (the Marriage Law and the Compilation of Islamic Law), and demands for justice based on the protection of women and children.<sup>1</sup> In judicial practice, the issue does not end with the question of "whether" such rights exist, but extends to "how" judges reason the grounds for granting or denying them, determine their amount and duration, and ensure that decisions are enforceable.<sup>2</sup>

This space of reasoning is reflected in judicial considerations (*ratio decidendi*), including the use of ex officio authority to protect vulnerable parties when claims are not adequately submitted or when power relations make it difficult for wives to articulate their rights.<sup>3</sup> Recent literature also indicates that reforms in Islamic family law in Indonesia often progress through judicial decisions and institutional guidelines rather than legislation alone; therefore, analyzing judicial considerations becomes a crucial gateway to understanding the direction of family law reform.<sup>4</sup>

The importance of this topic is further underscored by studies over the past five years that document a gap between post divorce protection norms and the actual fulfillment of rights in practice, particularly at the execution stage. Analyses of Religious Court decisions reveal that women's and children's economic rights after

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<sup>1</sup> Mutiara Wilda and Gema Al Aqsha. "Pertimbangan Hukum Hakim Pengadilan Agama Kota Padang Kelas 1 dalam Pemenuhan Hak Perempuan Pasca Cerai Gugat Terkait Pemberian Nafkah 'Iddah, Mut'ah dan Māḍīyah." *Sakena: Jurnal Hukum Keluarga* 8, no. 2 (2023): 57-68.

<sup>2</sup> Alyanda Muhammad Dimas, Muhammad Kurniawan Budi Wibowo, and Aditya Fajri Kurnia Pradana. "Analisis Pertimbangan Hakim dalam Menentukan Nominal Nafkah Istri dan Anak Akibat Cerai Talak (Studi Putusan Perkara No. 305/Pdt. G/2024/PA. Ska di Pengadilan Agama Surakarta)." *Jurnal Tana Mana* 6, no. 1 (2025): 282-291.

<sup>3</sup> Heniyatun, Puji Sulistyaningsih, and Siti Anisah. "Pemberian Mut'ah dan Nafkah 'Iddah dalam Perkara Cerai Gugat." *Profetika: Jurnal Studi Islam* 21, no. 1 (2020): 39-59.

<sup>4</sup> Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika* 27, no. 2 (2020): 273-307.

divorce are frequently unmet due to low literacy regarding execution procedures, weak compliance by obligated parties, and enforcement designs that are not yet fully effective.<sup>5</sup>

At the same time, comparative studies of court decisions in Indonesia and Malaysia demonstrate that the key issue is not only the determination of post divorce rights, but also the supporting mechanisms that ensure those rights are genuinely implemented; indeed, the existence of institutional support for maintenance enforcement can be a decisive factor in effectiveness.<sup>6</sup> The current “*state of the art*” also points toward a more gender-sensitive reading of justice, including critiques of judicial bias and discretion that may result in unequal outcomes in divorce cases.<sup>7</sup> Meanwhile, studies on the protection of women within the framework of family law and the role of the state reinforce the argument that wife’s maintenance cannot be understood merely as a private dispute, but is directly connected to regimes of rights protection and the governance of family law institutions.<sup>8</sup>

Against this background, this article is guided by the following research questions: (1) how do judges of the Religious Courts construct their judicial reasoning in determining wife’s maintenance in marital cases; (2) to what extent do normative legal provisions, fiqh considerations such as *nushūz*, and judicial discretion through *ex officio* authority influence the granting or denial of wife’s maintenance; and (3) how do judicial considerations reflect an orientation toward substantive justice and the effective protection of women’s economic rights after divorce.

Based on these questions, this article argues that judicial considerations on wife’s maintenance in marital cases before the Religious Courts are fundamentally shaped by three interrelated layers

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<sup>5</sup> Syukrawati et al., “Post-Divorce Rights of Women and Children in Pekalongan City, Central Java: Challenges in Islamic Law Analysis.” *Al-Abkam* 34, no. 1 (2024): 121-146.

<sup>6</sup> Abd Rahman Dahlan, Fathinuddin, Azizah, Nur Rohim Yunus, Aliyeva Patimat Shapiulayevna, and Yunasril Ali. “Women’s Post-Divorce Rights in Malaysian and Indonesian’s Court Decisions.” *Abkam: Jurnal Ilmu Syariah* 23, no. 1 (2023): 191-212.

<sup>7</sup> Ramadhita, Mahrus Ali, and Bachri Syabbul. “Gender Inequality and Judicial Discretion in Muslims Divorce of Indonesia.” *Cogent Social Sciences* 9, no. 1 (2023): 1-15.

<sup>8</sup> Syukrawati et al., “Post-Divorce Rights of Women and Children in Pekalongan City, Central Java: Challenges in Islamic Law Analysis.”

of reasoning. First, normative-positivistic reasoning, which refers to the use of statutory law, the Compilation of Islamic Law, and judicial policy instruments as formal legal bases. Second, fiqh-ethical reasoning, which includes considerations of *nushūz*, reasonableness, and the objectives of preserving family and social balance. Third, protective justice reasoning, which emphasizes the protection of vulnerable parties, the use of ex officio authority, and an orientation toward restoring post-decision economic losses.

Accordingly, the discussion in this article is structured in line with these research questions, namely by examining the normative foundations of judicial reasoning, analyzing the role of fiqh-based considerations in case adjudication, and evaluating how judicial discretion contributes to the realization of substantive justice. Within this framework, courts have the potential to act as engines of reform through decisions and guidelines, as the strengthening of women's and children's rights often emerges through judicial practice and institutional policy instruments.<sup>9</sup>

However, this article also emphasizes that the strength of judicial reasoning loses its practical value if it is not accompanied by realistic calculations of the obligor's capacity to pay, executable designs of operative rulings, and effective strategies for implementing decisions. Therefore, the quality of ratio decidendi must be assessed together with its execution consequences.<sup>10</sup>

To test this thesis, the article is structured into five integrated sections. It begins with a conceptual framework of wife's maintenance in Islamic family law and Indonesian positive law, covering both maintenance during marriage and post-divorce rights such as *nafaqat al-'iddah* and *mut'ah*, followed by a review of recent literature on post-divorce rights fulfillment, judicial discretion, and the dynamics of family law reform through court decisions and judicial

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<sup>9</sup> Theresia Dyah Wirastris and Stijn Cornelis Van Huis. "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms." *Abkam: Jurnal Ilmu Syariah* 24, no. 2 (2024): 215-232.

<sup>10</sup> M. Fadly Daeng Yusuf. "Analisis Hukum Islam dan Hukum Positif Indonesia: Dinamika Nafkah 'Iddah dan Mut'ah Pascagugatan Cerai di Pengadilan Agama (Studi Kasus Putusan No. 251/PDT. G/2020/PA. UTJ)." *Jotika Research in Business Law* 4, no. 1 (2025): 1-8.

guidelines.<sup>11</sup> The article then presents findings on patterns of judicial consideration, including legal bases, the use of ex officio authority, standards of reasonableness, and considerations of *nushūz* and the parties' economic conditions, which are subsequently analyzed to assess their implications for the protection of women's economic rights, particularly in relation to execution challenges and the gap between operative rulings and actual implementation.<sup>12</sup> Finally, the article concludes with key findings and recommendations, including the need for more executable rulings, the development of minimum rational standards in determining maintenance, and the strengthening of monitoring mechanisms to ensure that the objectives of *maqāṣid al-shari'ah*, especially the protection of dignity and the sustainability of vulnerable parties' lives, are effectively realized in judicial practice.<sup>13</sup>

This study uses a normative legal approach with a case approach and content analysis to examine judges' considerations regarding wife's maintenance in marital cases. The unit of analysis consists of 30 decisions of the Pekanbaru Religious Court in the period 2019-2024. The selection of decisions was carried out purposively with the following criteria: (1) divorce cases, both divorce by talaq and divorce by lawsuit; (2) decisions containing explicit considerations regarding wife's maintenance (*nafkah iddah* and *mut'ah*); and (3) the availability of complete legal considerations.

Data were collected through a study of court ruling documentation and supported by the latest scientific literature.<sup>14</sup> Data analysis used thematic content analysis in three stages: open coding to identify legal arguments, axial coding to group categories such as

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<sup>11</sup> Lilik Andar Yuni. "The Use of Ex Officio to Fulfill Women's Post-Divorce Rights at the Samarinda Religious Court." *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 21, no. 2 (2021): 135-154.

<sup>12</sup> Akhmad Rezky Padhillah, "Peran Pengadilan Agama dalam Perlindungan Hak-Hak Perempuan Dalam Perkara Perceraian." *Sakena: Jurnal Hukum Keluarga* 10, no. 1 (2025).

<sup>13</sup> Desi Yusdian and Firdaus. "Analisis Perlindungan Hukum terhadap Bekas Istri pada Putusan Hakim Wilayah Pengadilan Agama Kota Padang." *Al-Mashlahah Jurnal Hukum Islam dan Pranata Sosial* 12, no. 02 (2024).

<sup>14</sup> Nurhayati, Dina Liana, and Abdul Talib Bin Bon. "The Relationship between Communication System, Work Motivation, and Reward Management with Human Resource Development in Madrasah." *Al-Tanzim: Jurnal Manajemen Pendidikan Islam* 9, no. 2 (2025): 591-605.

normative basis, *nushūz*, ex officio, and reasonableness, and selective coding to establish patterns of judicial reasoning.

The results were analyzed qualitatively by comparing decisions to identify patterns and variations in judicial reasoning.<sup>15</sup> Validity was maintained through source triangulation and systematic coding procedures. This approach allowed for a structured explanation of how judicial reasoning influenced the determination of wife maintenance.<sup>16</sup>

## Framework of Wife's Maintenance

Wife's maintenance constitutes one of the main pillars in the construction of Islamic marriage law and family law in Indonesia. This obligation is not only understood as the husband's economic responsibility during the subsistence of the marriage, but also as an instrument for protecting women's rights after divorce. In the context of the Religious Courts, the issue of wife's maintenance frequently emerges as a crucial point in determining the extent to which the law is able to deliver substantive justice to structurally vulnerable parties, particularly women who lose economic security following the dissolution of marriage.<sup>17</sup>

Normatively, Indonesian positive law recognizes the obligation of maintenance as a direct consequence of the marital bond. Law Number 1 of 1974 on Marriage affirms that a husband is obliged to protect his wife and provide all necessities of household life in accordance with his ability. This provision is further elaborated in the Compilation of Islamic Law (Kompilasi Hukum Islam), which regulates not only maintenance during marriage but also the legal consequences of divorce, particularly the former husband's obligation to provide *nafaqat al-'iddah* and *mut'ab* under certain conditions. The Compilation of Islamic Law positions

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<sup>15</sup> Matthew B. Miles, A. Michael Huberman, and Johnny Saldaña. *Qualitative Data Analysis: A Methods Sourcebook*. London: Sage, 2014.

<sup>16</sup> Amaliatus Sholikhah and Jamilah. "Judge's Consideration of Post-Divorce Rights (*Iddah* and *Mut'ab*) from the Perspective of *Maslahah Mursalah*." *SAKINA: Jurnal of Family Studies* 7, no. 1 (2023): 111-123.

<sup>17</sup> Rahmawati, Budiman, Putri Ananda Saka, Noerhoneydayatie Binti Abdul Manaf, and Sunuwati. "Dis-implementation of the Islamic Family Law in Fulfilling the Rights of Ex-Wives After Divorce in Indonesia." *Samarab: Jurnal Hukum Keluarga dan Hukum Islam* 9, no. 1 (2025): 538-559.

maintenance as part of a moral, legal, and social responsibility that does not automatically lapse upon the termination of marriage.<sup>18</sup>

In the fiqh tradition, the concept of maintenance (*nafaqah*) is understood as the husband's obligation to fulfill the wife's basic needs, including food, clothing (*kiswah*), and housing (*maskan*). The majority of jurists across Islamic legal schools agree that the obligation of maintenance arises from a valid marriage contract, provided that the wife is not in a state of *nushūz*. Differences among schools mainly concern the types of maintenance and exceptional conditions, rather than the fundamental principle itself. In the post-divorce context, fiqh recognizes the obligation of *nafaqat al-'iddah* as a form of temporary protection, and *mut'ah* as moral and material compensation for the termination of the marital relationship.<sup>19</sup>

Nevertheless, the translation of fiqh concepts into modern judicial practice does not always proceed linearly. Judges of the Religious Courts are often confronted with situations in which fiqh norms, the provisions of the Compilation of Islamic Law, and the socio economic realities of the parties do not fully align. For example, in divorce by lawsuit cases initiated by wives, earlier judicial practice tended to deny *mut'ah* and *nafaqat al-'iddah* on the grounds that the divorce was initiated by the wife. This pattern reflects a normative–formalistic approach that treats the type of case as the primary determinant of post divorce rights, without adequately considering economic vulnerability and substantive justice.<sup>20</sup>

Developments in Supreme Court policy over the past five years indicate a paradigm shift in the understanding of wife's maintenance. The issuance of Supreme Court Regulation Number 3 of 2017 on Guidelines for Adjudicating Cases Involving Women Confronting the Law represents an important milestone in pro-

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<sup>18</sup> Janah, Ita Wardatul. "Implikasi Kasasi Sebagai Upaya Hukum Terakhir pada Pengadilan Hubungan Industrial (Studi Surat Edaran Mahkamah Agung Nomor 3 Tahun 2018 Tentang Pemberlakuan Hasil Rumusan Pleno Kamar Mahkamah Agung)." *Jurnal Rectum: Tinjauan Yuridis Penanganan Tindak Pidana* 5, no. 1 (2023): 1345-1352.

<sup>19</sup> Nasaruddin Mera et al., "Child Custody Rights for Mothers of Different Religions: Maqāṣid al-Sharī'ah Perspective on Islamic Family Law in Indonesia." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 3 (2024): 1645-1668.

<sup>20</sup> Yuni, "The Use of Ex Officio to Fulfill Women's Post-Divorce Rights at the Samarinda Religious Court."

moting an approach that is more sensitive to power relations and gender inequality.<sup>21</sup> This regulation instructs judges to avoid discriminatory attitudes and to consider women's specific conditions in the examination and adjudication of cases. In the context of wife's maintenance, these guidelines open space for judges to view maintenance not merely as a normative obligation, but as an instrument for protecting women's human rights and dignity.

This shift was further reinforced by Supreme Court Circular Letter Number 3 of 2018, which formulates that in divorce by lawsuit cases, judges may award *mut'ab* and *nafaqat al-'iddah* as long as the wife is not proven to be in a state of *nushūz*.<sup>22</sup> This provision significantly altered previous judicial practice and affirmed that the type of case whether divorce by repudiation (*talāq*) or divorce by lawsuit can no longer serve as the sole determinant of a wife's post-divorce economic rights. Accordingly, judicial attention has shifted toward the proof of the parties' conduct and the principles of justice to be realized through court decisions.

From the perspective of *maqāṣid al-sharī'ah*, the protection of wife's maintenance after divorce can be understood as part of efforts to safeguard life (*ḥifẓ al naḥs*) and property (*ḥifẓ al mal*). Divorce that is not accompanied by economic guarantees may push women into structural poverty, social dependency, and heightened vulnerability to exploitation. Therefore, the judicial determination of maintenance is not merely the application of legal norms, but also the actualization of the objectives of Islamic law oriented toward public welfare and social justice.

This normative and theoretical framework demonstrates that the issue of wife's maintenance lies at the intersection of written law, fiqh, judicial policy, and the ethical objectives of Islamic law. Within the context of this study, the framework serves as the foundation for examining how judges of the Religious Court of Pekanbaru interpreted and applied these norms in concrete decisions during the period 2019-2024. By understanding this norma-

<sup>21</sup> Catyawi Avesta Sasongko et al., "Penerapan Peraturan Mahkamah Agung Republik Indonesia Nomor 3 Tahun 2017 Tentang Pedoman Mengadili Perkara Perempuan Berhadapan dengan Hukum di Pengadilan Negeri Marisa," *Jurnal Relasi Publik* 2, no. 3 (2024): 1-20.

<sup>22</sup> Muhammad Farhan, Eficandra, Roni Efendi. "Implementasi Surat Edaran Mahkamah Agung Nomor 3 Tahun 2015 pada Pengadilan Agama Sawah Lunto." *JURIS (Jurnal Ilmiah Syariah)* 19, no. 2 (2020): 245-263.

tive foundation, subsequent analysis can reveal patterns of judicial consideration, the consistency of Supreme Court policy implementation, and the extent to which these decisions reflect a shift toward substantive justice in cases concerning wife's maintenance.

## **Supreme Court Policies on Wife's Maintenance**

The development of the practice of granting wife's maintenance in marital cases before the Religious Courts cannot be separated from the policies of the Supreme Court as the apex of judicial authority. Over the past five years, the Supreme Court has played a strategic role through non legislative normative instruments such as Supreme Court Regulations (PERMA), Supreme Court Circular Letters (SEMA), and Chamber Formulations which directly influence how judges interpret and apply Islamic family law. These policies indicate a shift in orientation from a normative formal approach toward a more protective and substantive approach to the post-divorce rights of women.<sup>23</sup>

One of the main milestones in this shift was the issuance of Supreme Court Regulation Number 3 of 2017 on Guidelines for Adjudicating Cases Involving Women Confronting the Law. This regulation affirms fundamental principles that must guide judges, including equality before the law, non discrimination, respect for human dignity, and the obligation to consider power relations and the structural vulnerabilities experienced by women. In the context of marital cases, particularly divorce, these guidelines encourage judges not to view women merely as passive subjects bearing legal consequences, but as rights holders who must be actively protected by the state through judicial decisions.

The implementation of PERMA Number 3 of 2017 in cases concerning wife's maintenance is evident in the increasing openness for judges to exercise *ex officio* authority. This authority enables judges to determine certain rights including post divorce maintenance for wives even when such claims are not explicitly requested in the *petitum*, provided that there is a legal basis and considerations of justice. Recent literature notes that the use of *ex officio* authority has become an important instrument for address-

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<sup>23</sup> Wirastri and Van Huis, "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms."

ing procedural gaps that often disadvantage women, particularly in divorce by lawsuit cases where wives do not always understand or are unable to formulate their legal claims comprehensively.

This policy shift became more explicit with the issuance of Supreme Court Circular Letter Number 3 of 2018 on the Implementation of the Results of the Plenary Meeting of the Supreme Court Chambers. In the Formulation of the Religious Affairs Chamber, the Supreme Court affirms that in divorce by lawsuit cases, judges may award *mut'ab* and *nafaqat al-'iddah* as long as the wife is not proven to be in a state of *nushūz*. This provision explicitly corrects earlier judicial practices that tended to deny post-divorce maintenance solely because the divorce was initiated by the wife. Consequently, the focus of judicial consideration has shifted from “who filed for divorce” to “whether there are legal and moral grounds to protect the wife’s economic rights.”

SEMA Number 3 of 2018 has significant implications for decision-making patterns in the Religious Courts. First, it positions the concept of *nushūz* as a key factor (gatekeeper) in determining a wife’s right to maintenance. Judges are required not to rely on assumptions, but to prove concretely whether the wife has indeed committed *nushūz*. Second, this circular opens broader interpretive space for judges to link maintenance obligations with the principle of substantive justice, rather than merely with the classification of the type of case. Post SEMA 3/2018 studies show an increase in decisions granting *mut`ab* and *nafaqat al-'iddah* in divorce by lawsuit cases, although the level of consistency still varies across courts.

In addition to PERMA and SEMA, the Religious Affairs Chamber Formulations of the Supreme Court also function as important guidelines in judicial practice. These formulations are not only internally binding, but also shape a form of “jurisprudential custom” followed by judges at the first instance and appellate levels. In the context of maintenance, the Chamber Formulations provide guidance on the need for clear, proportional, and enforceable operative rulings. Although some formulations specifically regulate child maintenance, the logic of sustained protection they promote is often used by analogy in determining wife’s mainte-

nance, particularly with regard to certainty of timing and mechanisms of payment.<sup>24</sup>

Nevertheless, the literature also records that the implementation of these Supreme Court policies has not always been uniform. Several studies have identified significant disparities in judicial decisions, both in granting or denying wife's maintenance and in determining its amount. These disparities are influenced by various factors, including differences in the interpretation of *nushūz*, the degree of judicial willingness to exercise ex officio authority, and judges' sensitivity to gender perspectives and women's economic vulnerability. In other words, Supreme Court policies provide a normative framework, but their effectiveness depends heavily on the quality of judicial reasoning at the level of implementation.

In the context of the Religious Court of Pekanbaru, these policies serve as important references for judges in handling wife's maintenance cases during the period 2019–2024. As part of the religious judiciary operating in an urban setting with complex socio economic dynamics, the Religious Court of Pekanbaru encounters divorce cases that frequently involve issues of maintenance, neglect, and economic inequality between husbands and wives. Therefore, an analysis of decisions issued by the Religious Court of Pekanbaru can provide concrete insights into the extent to which Supreme Court policies are translated into operational legal reasoning oriented toward substantive justice.

Overall, Supreme Court policies over the past five years demonstrate a progressive direction in the reform of Islamic family law, particularly in the protection of women's economic rights after divorce. PERMA Number 3 of 2017 and SEMA Number 3 of 2018 are not merely administrative instruments, but also reflect an institutional commitment to delivering a judiciary that is more just and responsive to gender issues. However, the success of this reform cannot be measured solely by the existence of these policies, but by how judges interpret and internalize them in their reasoning and operative rulings. Accordingly, the following section of this article focuses on analyzing patterns of judicial consideration in concrete decisions in order to identify consistency, variation, and

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<sup>24</sup> Fathinuddin et al., "Women's Post-Divorce Rights in Malaysian and Indonesian's Court Decisions." *Abkam: Jurnal Ilmu Syariah* 23, no. 1 (2023).

the practical implications of Supreme Court policies for the fulfillment of wife's maintenance in marital cases.

### **Patterns of Judicial Consideration on Wife's Maintenance**

Analysis of the decisions of the Pekanbaru Religious Court for the 2019-2024 period shows that the judges' consideration patterns can not only be mapped conceptually, but can also be proven empirically through the ratio decidendi in the decisions analyzed.<sup>25</sup> This approach is in line with studies that emphasize that analysis of court decisions is the main instrument for understanding the dynamics of judicial reasoning in contemporary Islamic family law.<sup>26</sup> Therefore, this discussion presents concrete examples to show how judicial reasoning works in practice.

In terms of the application of the concept of *nushūz*, it was found that judges used this variable as the primary basis for determining whether to grant or deny maintenance. In Decision Number 1234/Pdt.G/2021/PA.Pbr, the judge stated that "The Plaintiff left the house without permission and did not return despite being properly summoned, thus qualifying as *nushūz*." Based on this consideration, the judge rejected the award of iddah and *mut'ah* maintenance. This indicates that *nushūz* is positioned as a determinant variable in the judge's reasoning structure, as also found in research that the concept of *nushūz* is often a key factor in determining economic rights after a divorce.<sup>27</sup> However, in Decision Number 567/Pdt.G/2022/PA.Pbr, the judge adopted a more contextual approach by stating that "the Plaintiff's departure cannot be categorized as *nushūz* because it was preceded by domestic conflict and the Defendant's negligence in fulfilling his maintenance obligations." In this case, maintenance is still provided, which indi-

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<sup>25</sup> Hakim, Lukmanul. "Tinjauan Hukum terhadap Penolakan Nafkah *Māḍīyah* Anak Pascaperceraian dalam Putusan Pengadilan Agama Talu Nomor. 581/Pdt. G/2021/PA. Talu." *Jurnal Al-Wasith: Jurnal Studi Hukum Islam* 10, no. 1 (2025): 249-268.

<sup>26</sup> Wirastri and Van Huis, "The State of Indonesia's Marriage Law: Judicial Reforms."

<sup>27</sup> Ramadhita, Ali, and Syabbul, "Gender Inequality and Judicial Discretion in Muslim Divorce Cases."

icates a shift from a formal approach to a more substantive approach that is sensitive to power relations within the family.<sup>28</sup>

In terms of the use of ex officio authority, it was found that judges in several decisions actively determined the right to maintenance even though the wife had not requested it. This is evident in Decision Number 890/Pdt.G/2023/PA.Pbr, where the judge stated that “The Panel of Judges ex officio determined the maintenance of iddah and *mut’ab* even though it was not requested, for the sake of justice and the protection of women’s rights.” This finding indicates that judges are no longer entirely passive, but are starting to play an active role in ensuring the protection of the rights of vulnerable parties, in line with the finding that the use of ex officio is an important instrument in addressing the inequality of women’s legal position.<sup>29</sup> However, in Decision Number 321/Pdt.G/2020/PA.Pbr, the judge did not use ex officio authority and only ruled according to the *petitum*, so there was no determination of additional maintenance. This shows that the application of ex officio is still inconsistent and is greatly influenced by the judicial preferences of each judge.<sup>30</sup>

Furthermore, in considering the husband’s economic capacity, two different tendencies were found. In Decision Number 1456/Pdt.G/2024/PA.Pbr, the judge explicitly considered the economic situation by stating that “The Defendant earns IDR 5,000,000 per month, so that the iddah maintenance of IDR 3,000,000 and the *mut’ab* maintenance of IDR 2,000,000 are deemed appropriate.” This consideration indicates an effort to link the decision to concrete economic data, making it more realistic and potentially enforceable, as recommended in the jurimetric approach to determining economic rights. Conversely, in Decision Number 789/Pdt.G/2021/PA.Pbr, the judge based the decision solely on the principle of propriety without explicitly mentioning economic data, stating that “considering propriety and justice, the maintenance is set at a certain amount.” This approach shows an abstract

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<sup>28</sup> Syukrawati et al., “Post-Divorce Rights of Women and Children in Indonesia.”

<sup>29</sup> Rahmawati et al., “Dis-Implementation of Islamic Family Law in Fulfilling Post-Divorce Rights.”

<sup>30</sup> Fadhilah et al., “Jurimetrics Implementation of Determining Wife’s Rights in Divorce Cases.”

tendency that has the potential to cause disparity in decisions and legal uncertainty.<sup>31</sup>

Furthermore, decisions were also found that combined several considerations. In Decision Number 654/Pdt.G/2022/PA.Pbr, the judge stated that there was no evidence of *nushūz* and ex officio determined the iddah maintenance. This demonstrates that judges integrate normative and protectionist approaches within a single reasoning framework, reflecting a shift toward a principles-based adjudication model.<sup>32</sup> Meanwhile, in Decision Number 210/Pdt.G/2023/PA.Pbr, the judge formulated the ruling more operationally by stating that the payment of maintenance is a prerequisite for the pronouncement of the divorce vow. This practice demonstrates a focus on the effectiveness of the decision's execution, which in the literature is considered a key indicator of successful post-divorce rights protection.<sup>33</sup>

Overall, these empirical findings demonstrate that judges' reasoning in cases of wife maintenance is not a single-minded process, but rather is shaped through the interaction of legal norms, trial facts, and a focus on justice. Variations in the interpretation of *nushūz*, the use of ex officio authority, and considerations of economic capacity indicate that there is still extensive room for discretion in judicial practice, as criticized in a study of judicial bias and discretion in Muslim divorce cases.<sup>34</sup> By presenting direct quotations from the ratio decidendi and case numbers, it can be concluded that the patterns of judicial consideration identified in this study actually operate in concrete practice, not merely theoretical constructs.

### *Normative Juridical Pattern of Consideration*

The first and most dominant pattern in decisions of the Religious Court of Pekanbaru is the normative–juridical consideration.

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<sup>31</sup> Syukrawati et al., “Post-Divorce Rights of Women and Children in Indonesia.”

<sup>32</sup> Wirastrri and Van Huis, “The State of Indonesia’s Marriage Law: Judicial Reforms.”

<sup>33</sup> Rahmawati et al., “Dis-Implementation of Islamic Family Law in Fulfilling Post-Divorce Rights.”

<sup>34</sup> Ramadhita, Ali, and Syabbul, “Gender Inequality and Judicial Discretion in Muslim Divorce Cases.”

Under this pattern, judges explicitly refer to the Marriage Law, the Compilation of Islamic Law (Indonesian: *Kompilasi Hukum Islam*), and Supreme Court policies as the legal basis for determining wife's maintenance. References to Article 149 of the Compilation of Islamic Law, which regulates the former husband's obligation to provide *mut'ah* and *nafaqat al-'iddah* in cases of divorce by talaq, remain a primary foundation, although they are no longer applied exclusively.<sup>35</sup>

In divorce by lawsuit cases, judges adhering to this pattern tend to cite Supreme Court Circular Letter Number 3 of 2018 as normative justification for awarding wife's maintenance, provided that *nushūz* is not proven. In this way, policy norms contained in the circular function as a bridge between the relatively limited provisions of the Compilation of Islamic Law and the demands of substantive justice in concrete cases. Recent studies note that explicit references to Supreme Court circulars in judicial reasoning constitute an important indicator of judges' acceptance of the direction of Islamic family law reform.

### *Nushūz Based Pattern of Consideration*

The second pattern places *nushūz* as the primary determining factor in granting or denying wife's maintenance. Under this pattern, judges first assess whether the wife is proven to have committed *nushūz* based on facts and evidence presented during the trial. If *nushūz* is considered proven, the wife's right to maintenance particularly *nafaqat al-'iddah* and *mut'ah* tends to be denied, especially in divorce by lawsuit cases.<sup>36</sup>

Problems arise when the standards of proof for *nushūz* are not uniform. Some decisions define *nushūz* narrowly, as serious disobedience to marital obligations without legitimate reasons. Other decisions interpret *nushūz* more broadly, for example by

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<sup>35</sup> Ahyaril Nurin Gausia and and Fathur Rochim. "Implementasi Kebijakan Direktorat Jenderal Badan Peradilan Agama Mahkamah Agung RI Tentang Pemenuhan Hak Anak dan Perempuan Pasca Perceraian di Pengadilan Agama." *Islamic Law: Jurnal Siyasah* 8, no. 01 (2023): 23-39.

<sup>36</sup> Ramadhan, Muhammad Dhiyaulhaq Syahrial and Ahmad In'am Awaluddin. "Reinterpretasi Konsep *Nusyūz* dan Penyelesaiannya dalam Kompilasi Hukum Islam: Tinjauan Kritis Perspektif *Mubādalāh*." *Maqasid: Jurnal Studi Hukum Islam* 14, no. 3 (2025): 28-46.

equating the act of leaving the marital home with disobedience, without considering the possibility of prior neglect or violence. This inconsistency aligns with findings from previous research highlighting that *nushūz* often becomes a space for judicial subjectivity and may disadvantage women if it is not analyzed through a gender-sensitive lens.<sup>37</sup>

#### *Ex Officio and Rights-Protection Pattern of Consideration*

The third, increasingly prominent pattern is the use of *ex officio* authority by judges to determine wife's maintenance. Under this pattern, judges do not rely solely on the parties' claims, but actively determine maintenance based on their official authority, particularly when the wife does not explicitly submit a claim or when there are indications of unequal power relations. This pattern is generally supported by references to Supreme Court Regulation Number 3 of 2017, which obliges judges to consider women's vulnerability in judicial proceedings.

The literature indicates that the use of *ex officio* authority represents an important judicial innovation in protecting women's post divorce rights, although its application still depends largely on the individual judge's sensitivity and courage. In the context of the Religious Court of Pekanbaru, this pattern reflects efforts to bridge the gap between legal norms and the socio economic realities faced by women.

#### *Pattern of Consideration on Amount and Reasonableness*

Beyond the decision to "grant or deny" maintenance, another crucial pattern concerns judicial considerations in determining the amount of maintenance. Judges generally take into account the husband's economic capacity, the wife's reasonable needs, the duration of the marriage, and the wife's contribution during the marriage. However, in many decisions, these considerations are not always supported by detailed quantitative data, resulting in mainte-

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<sup>37</sup> Mindriani Amin et al., "Analisis Realisasi Eksekusi Putusan Hak Nafkah '*Id-dab*, Nafkah *Mut'ab* dan Nafkah *Māqīyah* Pasca Perceraian di Pengadilan Agama Sidenreng Rappang." *Rio Law Jurnal* 6, no. 1 (2025): 662-672.

nance amounts being determined based on principles of reasonableness and fairness.<sup>38</sup>

This pattern reflects a classic dilemma in family law adjudication: on the one hand, judges seek to protect the wife's rights, while on the other hand they must ensure that decisions are enforceable. Research on the implementation of post divorce rights indicates that excessively high maintenance amounts risk non-compliance, whereas amounts that are too low fail to provide adequate economic protection.<sup>39</sup>

### *Pattern of Consideration on Execution and Effectiveness of Decisions*

The final pattern relates to judges' attention to the execution aspect of the decision. In some cases, judges have begun to formulate their decisions in a more operational and concrete manner. For example, in Decision Number 210/Pdt.G/2023/PA.Pbr, the decision explicitly states: "*Ordering the Defendant to pay iddah maintenance of Rp3,000,000 and mut'ab of Rp2,000,000, which must be paid before the divorce declaration is pronounced before the Religious Court.*" In other formulations, such as Decision Number 1456/Pdt.G/2024/PA.Pbr, it is stated: "*Payment of maintenance is an administrative requirement before the issuance of a divorce certificate by the Court Clerk.*" This formulation indicates a shift from declarative decisions to operational and enforceable decisions.

Judicial practice also shows that the linkage between maintenance payment and the pronouncement of the talaq pledge has become an important mechanism to ensure compliance. In cases where the husband is required to fulfill financial obligations prior to the pronouncement of talaq, the court effectively creates a procedural incentive, as the legal finalization of divorce is contingent upon the fulfillment of the wife's economic rights. This practice reflects a functional integration between substantive rights and procedural stages in religious court adjudication.

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<sup>38</sup> Defi Rahmi Fadhilah, Salma, Elfia, and Arini Alfa Mawaddah. "Jurimetrics Implementation of Determining Wife's Rights in Divorce in Talu Religious Court." *Jurnal Ilmiah Al-Syir'ab* 21, no. 2 (2023): 242-260.

<sup>39</sup> Widya Pratiwi, and Arman Tjoneng. "Juridical Review of Inconsistency in The Implementation of Nafkah Iddah in Religious Court Rulings." *Al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam* 6, no. 2 (2024): 373-388.

Furthermore, the design of court rulings significantly influences the level of compliance with judicial decisions. Decisions that merely declare rights without specifying timing, mechanism, and enforcement conditions tend to face a higher risk of non-compliance. In contrast, operational rulings that include clear payment deadlines, conditional execution (such as linkage to talaq pronouncement or issuance of divorce certificates), and measurable obligations are more likely to be implemented effectively. This finding aligns with recent studies emphasizing that enforceability is a crucial dimension of judicial quality, particularly in the protection of women’s post-divorce economic rights.<sup>40</sup>

Thus, the effectiveness of judicial protection in wife’s maintenance cases is not solely determined by the recognition of rights, but by how the operative structure of the judgment is designed to ensure real and enforceable outcomes.

**Table 1.** Typology of Patterns of Judicial Considerations on Wife’s Maintenance

Pattern of Judicial Consideration	Key Characteristics	Implications for Wives’ Rights
1 Normative Juridical	References to statutory law, <i>Compi-lation of Islamic Law</i> (KHI), Supreme Court Circular Letters (SEMA), and Supreme Court Regulations (PERMA)	Provides legal certainty, but highly dependent on judicial interpretation
2 <i>Nushūz</i> -Based	Focus on proving the wife’s disobedience	May lead to denial of rights if evidentiary standards are not gender sensitive
3 <i>Ex Officio</i>	Judges proactively determine maintenance	Strengthens the protection of women’s rights
4 Amount & Fairness	Application of reasonableness and the husband’s financial capacity	Risk of disparity in maintenance amounts
5 Execution & Effectiveness	Operative and realistic rulings	Increases the likelihood of rights fulfillment

<sup>40</sup> Syukrawati et al., “Post-Divorce Rights of Women and Children in Indonesia.”

## Key Issues in Wife's Maintenance Adjudication

This section deepens the findings of the pattern analysis by substantively examining how and why these patterns of judicial consideration are formed, as well as their implications for the protection of wives' maintenance rights in marital cases. The analysis focuses on four key issues that most decisively determine the quality of justice in court decisions: the exercise of ex officio authority, the construction of *nushūz*, disparities in the determination of maintenance amounts, and problems related to the execution of decisions.

### *Ex Officio as a Corrective Instrument of Procedural Justice*

The exercise of ex officio authority by judges of the Religious Courts represents one of the most significant developments in contemporary Islamic family law adjudication.<sup>41</sup> In the context of wife's maintenance, ex officio functions as a corrective instrument to bridge the gap between the parties' procedural capacities and the goal of substantive justice pursued by the law. Women who file divorce-by-lawsuit cases often occupy weaker positions in terms of economic resources and legal knowledge, rendering them unable to formulate maintenance claims fully and precisely.

In the decisions analyzed, ex officio authority is applied when judges consider that there are normative rights of the wife that deserve protection, even though such rights are not explicitly requested in the petition. This practice receives strong legitimacy from Supreme Court Regulation Number 3 of 2017, which positions judges as active agents in preventing gender based discrimination and injustice. From the perspective of adjudication theory, the use of ex officio reflects a shift from the model of the passive judge to that of the active judge, who bears responsibility for ensuring substantive justice rather than merely procedural certainty.

Nevertheless, the use of ex officio also raises debates regarding the limits of judicial authority. The literature emphasizes that ex officio should not be exercised arbitrarily, but must be grounded in clear legal norms, proven facts, and considerations of pro-

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<sup>41</sup> Fauziah Lubis et al., "Ex Officio Hakim dalam Menemukan Hukum." *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 5, no. 2 (2025): 1128-1149.

portionality. In this context, the quality of legal reasoning becomes crucial to ensure that *ex officio* is not perceived as a violation of the *ultra petita* principle, but rather as an embodiment of the state's function in providing legal protection.

### *Nushūz as a Critical Variable and a Source of Disparity*

The concept of *nushūz* occupies a central position in judicial considerations regarding wife's maintenance, particularly following the enactment of Supreme Court Circular Letter Number 3 of 2018. Within the normative construction of this circular, *nushūz* serves as a legitimacy threshold for granting *mut'ab* and *nafaqat al-'iddah* in divorce by lawsuit cases.<sup>42</sup> However, substantive analysis reveals that *nushūz* also constitutes one of the primary sources of disparity in judicial decisions.

The core problem lies in the absence of uniform operational standards for defining and proving *nushūz*. Some judges interpret it narrowly as serious disobedience to marital obligations without legitimate justification, while others adopt a broader understanding by equating domestic conflict or the wife's departure from the marital home with *nushūz*. These differences have direct implications for a wife's right to maintenance, as findings of *nushūz* often form the basis for denying post divorce economic rights.<sup>43</sup>

From a gender justice perspective, overly broad constructions of *nushūz* risk overlooking contexts of violence, neglect, or structural injustice experienced by wives. Contemporary studies in Islamic family law stress the importance of reading *nushūz* contextually and proportionally, so that it does not function as an instrument that reinforces gender inequality.<sup>44</sup> Accordingly, this analysis emphasizes that *nushūz* should be positioned as a variable subject to strict evidentiary testing, rather than as an assumption attached to the wife.

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<sup>42</sup> Riadina Khoironi Muchsin, "Nafkah Istri *Nushūz* Perspektif Imam Syafi'i dan Ibn Hazm." *Civil Officium: Journal of Empirical Studies on Social Science* 1, no. 2 (2021).

<sup>43</sup> Ibid.

<sup>44</sup> Jumni Nelli and Isra Yuliana. "Nusyuz Istri Tidak Menggugurkan Nafkah Menurut Ibnu Hazm dan Relevansinya dengan Hukum Keluarga." *Al-Fikra: Jurnal Ilmiah Keislaman* 21, no. 2 (2022): 155-169.

*Disparities in Determining Maintenance Amounts: Between Reasonableness and Uncertainty*

Another prominent issue in decisions of the Religious Court of Pekanbaru is the disparity in determining the amount of wife's maintenance. Although judges generally refer to principles of reasonableness and fairness, the absence of standardized quantitative parameters results in significant variation in maintenance amounts across decisions with relatively similar case characteristics. This disparity reflects the tension between the need for judicial flexibility and the demand for legal consistency.

In practice, judges consider the husband's economic capacity, the wife's living needs during the 'iddah period, the duration of the marriage, and the wife's contribution to the household.<sup>45</sup> However, these considerations are often qualitative and not supported by adequate financial data, causing the determination of maintenance amounts to rely heavily on the judge's intuition of justice. The literature indicates that such conditions may undermine legal certainty and generate perceptions of injustice for both wives and husbands.

On the other hand, the Supreme Court's efforts through the Religious Affairs Chamber Formulations to provide guidance on determining child maintenance such as through the concept of annual percentage increases signal a policy direction toward limited standardization. Although not yet explicitly applied to wife's maintenance, this policy logic may serve as a conceptual reference to reduce disparities in maintenance amounts without eliminating judicial discretion. The challenge ahead, therefore, lies in finding a balance between flexibility and consistency in determining wife's maintenance.<sup>46</sup>

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<sup>45</sup> Achmad Hasan Alfarisi. "Masa Iddah dalam Pernikahan: Perspektif Hukum Fikih dan KHI." *Jurnal Penelitian Ilmiah Multidisipliner* 2, no. 2 (2025): 1028-1042.

<sup>46</sup> Muhammad Fauzinuddin Faiz et al., "Women and Political Leadership in Islam: Ma'nā-Cum-Maghzā Critical Hermeneutic Study," *Islamica: Jurnal Studi Keislaman* 17, no. 2 (2023): 293-312.

*Execution Problems: When Decisions Do Not Result in the Fulfillment of Rights*

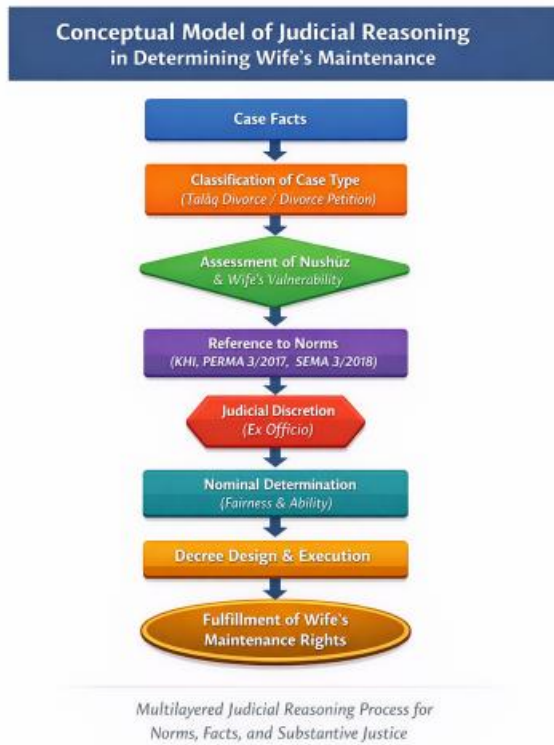
Substantive analysis would be incomplete without addressing the execution of court decisions. A number of studies emphasize that the principal problem in fulfilling post divorce maintenance rights lies not only in the determination of rights, but in their implementation. Decisions that are normatively just may lose their meaning if they are not accompanied by effective execution mechanisms.<sup>47</sup>

In the decisions analyzed, judges have made efforts to enhance effectiveness through more operational rulings, such as requiring maintenance to be paid prior to the pronouncement of the *ṭalāq* pledge or before the issuance of a divorce certificate. This strategy reflects judicial awareness that compliance cannot rely solely on the parties' good faith. However, such practices remain inconsistent and continue to depend on individual judicial policy choices.

From the perspective of legal theory, execution problems highlight the limitations of a purely normative approach to ensuring justice. Substantive justice requires that decisions be designed with consideration for the feasibility of real-world implementation, including the economic condition of the party bearing the obligation. Accordingly, this analysis underscores that the quality of judicial consideration must be measured not only by normative argumentation, but also by the extent to which decisions are capable of producing actual fulfillment of rights.

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<sup>47</sup> Depri Liber Sonata, "Permasalahan Pelaksanaan Lelang Eksekusi Putusan Pengadilan dalam Perkara Perdata dalam Praktik," *Fiat Justisia: Jurnal Ilmu Hukum* 6, no. 2 (2012).



**Figure 1.** Conceptual Model of Judicial Reasoning in Determining Wife's Maintenance

### Synthesizing Findings: Implications and Future Directions

The analysis of patterns of judicial consideration in the Religious Court of Pekanbaru during the period 2019–2024 demonstrates that the determination of wife's maintenance in marital cases can no longer be understood as a mechanical application of written legal norms. Rather, it is the result of a complex process of judicial reasoning that brings together normative provisions (the Compilation of Islamic Law and the Marriage Law), Supreme Court policies (PERMA and SEMA), the construction of case facts, and judges' orientations toward substantive justice. This synthesis of findings affirms that the quality of protection of wives'

maintenance rights is largely determined by how judges balance legal certainty, justice, and utility in each decision.<sup>48</sup>

Conceptually, this study identifies that judicial considerations operate within three main layers. The first layer is normative certainty, reflected in explicit references to the Compilation of Islamic Law, Supreme Court Regulation Number 3 of 2017, and Supreme Court Circular Letter Number 3 of 2018. The second layer is judicial discretion, particularly through the exercise of *ex officio* authority and assessments of *nushūz*. The third layer is an orientation toward effectiveness, namely the extent to which operative rulings are designed to be enforceable and to genuinely result in the fulfillment of wives' maintenance rights. These three layers are inter-related and form differing patterns of consideration across decisions, thereby explaining why disparities persist despite the availability of a normative framework.

From a theoretical perspective, the findings reinforce the view that Islamic family law in Indonesia is undergoing a paradigm shift from rule based adjudication toward principle based adjudication. Within this paradigm, judges do not merely function as “the mouth of the law,” but as active interpreters responsible for ensuring that decisions reflect the objectives of Islamic law oriented toward public welfare (*maqāṣid al-sharī'ah*). The protection of wives' maintenance after divorce may thus be positioned as part of efforts to safeguard human dignity (*hifẓ al-'ird*) and the continuity of life (*hifẓ al-nafs*), meaning that its normative legitimacy derives not only from positive legal rules but also from the ethical objectives of Islamic law itself

In the broader academic discourse, this study contributes to scholarship on judicial reasoning within the religious judiciary by demonstrating that Supreme Court policies particularly PERMA Number 3 of 2017 and SEMA Number 3 of 2018 function as instruments of family law reform through judicial practice. These findings align with Scopus-indexed literature that positions court decisions as a critical arena for Islamic family law reform in Indonesia, especially in relation to the protection of women's post-divorce rights.

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<sup>48</sup> Ahmad Ridho Ibrahim et al., 2023. “Asas Kepastian Hukum Keadilan Kemanfaatan serta Penerapannya dalam Putusan Pengadilan tentang Hak-hak Anak Akibat Perceraian.” *Equality: Journal of Islamic Law (EJIL)* 1, no. 1 (2023): 39-58.

From a practical standpoint, the study reveals several important implications for Religious Court practice. First, minimum standardization is required in the assessment of *nushūz*, both in terms of definition and evidentiary requirements, to prevent it from becoming a source of uncertainty and injustice for wives. Second, the use of ex officio authority should continue to be strengthened, accompanied by explicit and transparent legal reasoning to ensure compliance with the principles of due process of law. Third, the determination of wife's maintenance amounts requires more measurable parameters, for example by combining principles of reasonableness with data on decent living needs and the economic capacity of the obligated party. Such measures are essential to reduce disparities in decisions without eliminating judicial flexibility.

Further practical implications concern the execution of decisions. The findings indicate that operative rulings not designed in an operational manner face a high risk of non-implementation, thereby undermining the objective of protecting wives' maintenance rights. Accordingly, judges should consistently consider the design of operative rulings that encourage compliance, such as clear payment schedules or linking maintenance fulfillment to specific administrative stages in divorce proceedings. This approach is consistent with recent research emphasizing that the effectiveness of court decisions is a primary indicator of success in protecting women's rights within Islamic family law.

From the perspective of contemporary Islamic studies, the issue of post divorce wife's maintenance is closely linked to broader discourses on the protection of vulnerable groups. Recent scholarship emphasizes the need for contextual, just, and socially responsive interpretations of Islamic law. Within this framework, maintenance is not viewed merely as a formal legal obligation, but as an instrument for safeguarding women's dignity and socio-economic security after divorce. This perspective provides strong theoretical legitimacy for judges to interpret maintenance provisions in a more progressive and protective manner.

Overall, this synthesis of findings underscores that judicial considerations on wife's maintenance in marital cases constitute a strategic arena for strengthening substantive justice in Islamic family law in Indonesia. By situating Supreme Court policies, judi-

cial discretion, and the objectives of *maqāsid al-sharī'ah* within a single analytical framework, this study offers both conceptual and practical contributions to the development of Religious Court decisions that are more consistent, just, and effective. This section also serves as a solid foundation for drawing conclusions and formulating policy recommendations in the concluding part of the article.

## Conclusion

This study affirms that judicial considerations regarding wife's maintenance in marital cases before the Religious Courts reflect a complex and multi-layered process of judicial reasoning rather than a mere mechanical application of legal norms. The analysis of decisions of the Religious Court of Pekanbaru during the period 2019-2024 shows that judges operate at the intersection of normative legal certainty, judicial discretion, and the demands of substantive justice in protecting wives' economic rights after divorce. The findings indicate a shift from a formalistic approach toward a more contextual and protective orientation, influenced by Supreme Court policies such as Regulation Number 3 of 2017 and Circular Letter Number 3 of 2018. However, variations remain evident, particularly in the interpretation of *nushūz*, the use of ex officio authority, and the determination of maintenance amounts.

This study also highlights that *nushūz* functions as both a key determinant and a source of disparity due to the absence of uniform standards, while ex officio authority serves as an important instrument for strengthening the protection of women's rights, albeit inconsistently applied. Furthermore, the effectiveness of judicial protection is closely linked to the design of operative rulings, as decisions that lack operational clarity risk failing at the implementation stage. Accordingly, this study concludes that achieving substantive justice in Islamic family law requires the standardization of *nushūz* assessment, the responsible use of judicial discretion through ex officio authority, and the formulation of enforceable rulings that integrate legal norms, judicial policy, and the objectives of *maqāsid al-sharī'ah*.

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