



OBLIGATION OF MADIYAH MAINTENANCE AFTER DIVORCE: PERSPECTIVES OF ISLAMIC LAW AND POSITIVE LAW

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Abstract

This study focuses on the obligation of post-divorce alimony from the perspective of Islamic law and positive law, considering the importance of this issue in the context of social justice and the protection of women's rights. The background of this study is based on the many cases where ex-wives have difficulty demanding alimony after divorce, which is often triggered by a lack of legal understanding and social stigma. The purpose of this study is to analyze the obligation of madiyah maintenance and the challenges faced in its implementation, with the hope of providing recommendations for the improvement of the legal and social system that supports women's rights. The method used in this study is a qualitative approach, with a juridical-normative approach. The findings show that there is a gap between Islamic law and positive law in enforcing the obligation of madiyah alimony, as well as the existence of social stigma that hinders ex-wives from fighting for their rights. The conclusion of this study recommends the need for collaboration between the government, legal institutions, and the community to increase awareness about livelihood rights, strengthen the mediation system, and expand access to legal aid. With these steps, it is hoped that the obligation of alimony can be carried out more effectively, provide adequate protection for ex-wives and their children, and create a fairer and more equal society.

Keywords: *Madiyah Maintenance, Divorce, Islamic Law, Positive Law*

Abstrak

Penelitian ini berfokus pada kewajiban nafkah madiyah pasca perceraian dari perspektif hukum Islam dan hukum positif, mengingat pentingnya isu ini dalam konteks keadilan sosial dan perlindungan hak-hak perempuan. Latar belakang penelitian ini didasarkan pada banyaknya kasus di mana mantan istri kesulitan menuntut nafkah setelah perceraian, yang sering kali dipicu oleh kurangnya pemahaman hukum dan stigma sosial. Tujuan penelitian ini adalah untuk menganalisis kewajiban nafkah madiyah serta tantangan yang dihadapi dalam implementasinya, dengan harapan dapat memberikan rekomendasi untuk perbaikan sistem hukum dan sosial yang mendukung hak-hak perempuan. Metode yang digunakan dalam penelitian ini adalah pendekatan kualitatif, dengan pendekatan yuridis-normatif. Hasil temuan menunjukkan bahwa terdapat kesenjangan antara hukum Islam dan hukum positif dalam menegakkan kewajiban nafkah madiyah, serta adanya stigma sosial yang menghambat mantan istri untuk memperjuangkan hak-haknya. Kesimpulan dari penelitian ini merekomendasikan perlunya kolaborasi antara pemerintah, lembaga hukum, dan masyarakat untuk meningkatkan kesadaran tentang hak-hak nafkah, memperkuat sistem mediasi, dan memperluas akses terhadap bantuan hukum. Dengan langkah-langkah ini, diharapkan kewajiban nafkah madiyah dapat terlaksana secara lebih efektif, memberikan perlindungan yang memadai bagi mantan istri dan anak-anak mereka, serta menciptakan masyarakat yang lebih adil dan setara.

Kata Kunci: *Nafkah Madiyah, Perceraian, Hukum Islam, Hukum Positif*

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Introduction

Divorce is often an event that has a significant impact, not only on the emotional and psychological aspects of the couple, but also in terms of the economic responsibilities that arise afterwards.¹ One of the main issues faced is the obligation of domestic maintenance, or financial support, from the husband to his ex-wife or children after the divorce.² This alimony obligation is regulated in both the perspective of Islamic Law and Positive Law, each of which has different views, provisions, and procedures for application. In the social context in Indonesia, where Islamic Law and Positive Law apply side by side, the implementation of the obligation to provide for maintenance is often a controversial and complex topic. Rapid social development and increasing divorce rates add to the urgency of discussions regarding clarity and fairness in the enforcement of post-divorce alimony obligations.³ Therefore, understanding how these two legal systems handle the issue of alimony is important to ensure protection for parties affected by divorce, as well as strengthen the validity of applicable laws.⁴

In the settlement of divorce cases, post-divorce maintenance obligations are often an issue that causes uncertainty and difficulties for both parties.⁵ Although Islamic Law and Positive Law in Indonesia both recognize the importance of this obligation, there are substantial differences in the application and enforcement of the rules of maintenance regulated by each legal system. Differences in interpretation between Islamic Law based on sharia and Positive Law regulated through the Law often pose legal challenges, especially in determining the amount and duration of alimony, as well as related rights for

¹ Putri Alfia Halida Sulalah, Anis, "Iddah Maintenance After Divorce from a Hadith Perspective (Case Study in Panaguan Village, Larangan District, Pamekasan Regency)," *El-Nubuawah: Journal of Hadith Studies* 1, no. 1 (2023): 60–87.

² J Beno, A.P Silen, and M Yanti, "Implementation of Husband's Obligations Post-Divorce (Case Study in Mutiara Timur District, Pidie Regency)," *Braz Dent J.* 33, no. 1 (2022): 1–12.

³ Hasanah Hajar, "Madhiyah Livelihood from the Perspective of the Imam of the Four Schools," *Al Qalam: Scientific Journal of Religion and Society* 17, no. 5 (2023): 3779, <https://doi.org/10.35931/aq.v17i5.2695>.

⁴ Fadil, Zidna Mazidah, and Zaenul Mahmudi, "Fulfillment of Women's Rights After Divorce: Dynamics and Transformation in the Legal Journey," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (2024): 1–20, <https://doi.org/10.18860/j-fsh.v16i1.25713>.

⁵ Hotnidah Nasution, Windy Triana, and Ahmad Rifqi Muchtar, "Ensuring Children's Rights after Divorce in Indonesia: Religious Court Decisions on Nafkah Madiyah," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (2024): 41–57, <https://doi.org/10.14421/ahwal.2024.17103>.

affected parties.⁶ This condition creates uncertainty for ex-spouses, especially the wife and children, in obtaining the right to maintenance that should be guaranteed. Therefore, this study focuses on a deeper exploration of the problem of enforcement of post-divorce alimony obligations from two legal perspectives in Indonesia, with the aim of identifying and overcoming obstacles that arise due to differences in interpretation and implementation in the context of Indonesian law.

This study aims to analyze and compare the regulation of post-divorce alimony obligations from the perspective of Islamic Law and Positive Law in Indonesia, in order to provide a comprehensive understanding of how the two legal systems provide protection for parties affected by divorce. The main focus of this study is to identify the legal principles underlying the obligation to provide for maintenance in each system, including how these provisions are applied in practice, as well as the extent to which these rules are able to respond to social and legal needs in society. Thus, this study is expected to not only reveal the existing normative differences, but also highlight how these principles play a role in supporting the welfare of ex-spouses and children after divorce. The results of this study are expected to contribute to enriching family law literature in Indonesia and offer valuable input for policymakers in formulating a more inclusive and adaptive legal approach to the needs of the community.

A review of the literature related to post-divorce maintenance obligations shows that there are still limitations in research that discusses in depth the comparison between Islamic Law and Positive Law in this context. Most previous studies tended to only highlight one legal perspective without exploring the dynamics arising from the existence of two legal systems that coexist in Indonesia. This results in a significant gap in understanding the legal and social implications of the different interpretations and application of post-divorce alimony obligations. Therefore, this study aims to fill this gap by providing a comprehensive analysis of the comparison of maintenance rules and practices in the two legal systems. Thus, this research is expected to provide new insights that clarify the interaction between Islamic Law and Positive Law in the enforcement of post-divorce alimony, as well as encourage the development of family law literature that is more representative and relevant to the conditions of Indonesian society.

This study offers a significant contribution to the field of family law by presenting a comprehensive analysis of post-divorce alimony obligations from two different legal perspectives, namely Islamic Law and Positive Law. The novelty aspect of the research lies in its approach that integrates normative and empirical analysis, allowing for a more holistic understanding of the application of the obligation of maintenance in practice. By

⁶ Sayyid Al-umam Sitepu and Fauziah Lubis, "Implications of the Inability to Pay Iddah Maintenance and Madiyah Maintenance in the Case of a Petition for Divorce (Analysis of PERMA No . 3 of 2017 and SEMA No . 2 of 2019)," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam* 9, no. 3 (2024), <https://doi.org/10.25217/jm.v9i1.4693>.

delving deeper into how the two legal systems interact with each other and affect the implementation of alimony rights and obligations, this study not only answers theoretical questions but also provides practical solutions to the problems faced by ex-couples after divorce. In addition, this research is expected to encourage further discussion on the need for legal policy adjustments to ensure better justice and protection for affected parties. Thus, the findings of this study are expected not only to enrich academic treasures, but also to provide relevant recommendations for policymakers and legal practitioners in facing challenges in the field of family law in Indonesia.

Research Methods

The research method used in this study is a qualitative approach with a comparative study design that aims to analyze and compare post-divorce alimony obligations in the perspective of Islamic Law and Positive Law in Indonesia. Data is collected through analysis of legal documents, including laws, fatwas, and court decisions, to explore the norms governing maintenance obligations in both legal systems. This research also utilizes related literature sources, such as books, journal articles, and research reports, to gain a more comprehensive understanding of the implementation and challenges of alimony obligations in practice. The data analysis process is carried out using thematic analysis techniques to identify and compare the main themes that emerge from the data, so as to provide a deep understanding of the dynamics that occur between Islamic Law and Positive Law. With this method, this study seeks to uncover the interaction between the two legal systems, as well as provide evidence-based recommendations for future legal system improvements.

Results and Discussion

Obligation of Nafkah Madiyah in Islamic Law

The obligation of alimony in Islamic law is one of the fundamental issues related to women's rights after divorce.⁷ The Qur'an explicitly gives directions on this obligation, as stated in Surah Al-Baqarah verse 241, "And for divorced women, sustenance is provided in a good way." This verse describes not only material obligations, but also moral responsibilities that must be fulfilled by ex-husbands. This principle emphasizes that madiyah maintenance is a form of protection for ex-wives, providing them with support to restore life after divorce.⁸

⁷ Ilham Akbar Madilis, "Analyst of Husband's Maintenance Rate Against Wife After Divorce Decision of Ambon Religious Court Class IA According to Imam Mazhab.," *Al-Muqaranah* 1, no. 2 (2023): 38–59.

⁸ Muhammad Nurohim, Yusuf Hanafi Pasaribu, and Asmaiyani Asmaiyani, "The Relationship between a Wife's Satisfaction in the Iddah Period with Marriage and Divorce," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 21, no. 2 (2021): 208–18, <https://doi.org/10.30631/al-risalah.v21i2.778>.

Furthermore, the hadith of the Prophet Muhammad PBUH also emphasizes this obligation, with words that show the importance of being kind to ex-wives.⁹ This shows that alimony is not only a legal obligation, but also an ethical aspect in maintaining good relations after divorce. Thus, the obligation of *madiyah* maintenance becomes an integral part of Islamic teachings that emphasize the importance of justice and compassion, even after the marital relationship ends.¹⁰

In practice, the implementation of the obligation of alimony often encounters various challenges. Many ex-wives face difficulties in demanding their rights, due to a lack of understanding of the applicable law as well as the social stigma surrounding divorce status.¹¹ Limited access to legal information and legal aid is also a barrier for ex-wives to earn a decent living. Therefore, it is important to increase public awareness of women's rights in the context of divorce so that they can be more proactive in demanding their rights.¹²

In addition, there are economic factors that affect the ex-husband's ability to fulfill the obligation of *madiyah* alimony. In many cases, a difficult economic situation can prevent the ex-husband from providing an appropriate alimony.¹³ Therefore, a fair solution must be found, both through mediation between the two parties and through the involvement of third parties who can help resolve the dispute amicably. With this approach, it is hoped that both parties can reach a mutually beneficial agreement, without neglecting the rights of the ex-wife.

The role of the court is also very important in enforcing the obligation of *madiyah* maintenance. Sharia courts are expected to act as fair mediators, taking into account various factors, such as the needs of the ex-wife, the ability of the ex-husband, and the length of the marriage.¹⁴ In this regard, training and capacity building for judges and mediators on gender issues and family law are urgently needed to ensure that decisions taken can reflect the expected justice.

⁹ Ilham Jafar, Nur Mohamad Kasim, and Dolot Alhasni Bakung, "Legal Consequences of Non-Implementation of Child Maintenance Obligations (Alimentation) by Parents After Divorce Decision," *Mandub: Journal of Politics, Social, Law and Humanities* 2, no. 1 (2023): 102–25, <https://doi.org/10.59059/mandub.v2i1.870>.

¹⁰ Jihan Alfadia, "MENDMENT TO ACT NUMBER 1 OF 1974 CONCERNING MARRIAGE (Decision Study Number 1145/Pdt.g/2020/PA. Krw)," *JJIH*, 2015, 6.

¹¹ Firdaus Firdaus et al., "Post-Divorce Child's Nafaqah Māḍiyah: An Analysis of the Shifting from Fulfilment to the Assertion of Ownership Rights," *Al-Ahkam* 33, no. 1 (2023): 45–62, <https://doi.org/10.21580/ahkam.2023.33.1.14566>.

¹² Herman B and Siswanto Siswanto, "Who Should Exercise Child Custody after Divorce?," *Amsir Law Journal* 4, no. 2 (2023): 289–95, <https://doi.org/10.36746/alj.v4i2.201>.

¹³ Meilan Lestari, "THE PROTECTION OF CHILD CUSTODY POST-DIVORCE BASED ON THE THEORY OF JUSTICE by: Meilan Lestari, Syafrinaldi, Abd Thalib Doctor of Laws Program, Islamic University of Riau," in *International Conference On Law And Social*, n.d., 1–13.

¹⁴ Muh Akbar, Fhad Syahril, and Hasrianti Hasrianti, "Parental Divorce : How to Ensure Child Support Rights Are Protected?," *Julia* 9, no. 1 (2024): 92–102.

In this context, a good understanding of the obligation of madiyah maintenance is also influenced by differences in interpretation among schools in Islam. Some schools emphasize the need for adequate maintenance as a form of protection for ex-wives, while others may have a stricter view. This variation shows that the understanding and implementation of nafkah madiyah can be influenced by the cultural, social, and economic background of the local community. Inter-sectarian dialogue and collaboration with religious leaders are essential to reach a consensus on women's rights after divorce.¹⁵

Another aspect that needs to be considered is the importance of the support of civil society institutions in helping ex-wives obtain their rights. These institutions can provide the information, legal education, and assistance services needed to claim alimony.¹⁶ With this support, the ex-wife will be better able to fight for her rights and get a median income in accordance with the principles of justice. Community involvement in supporting women after divorce can strengthen women's bargaining position and help them in the negotiation process.

In addition, education and socialization regarding the rights of madiyah maintenance need to be carried out widely, especially among the community. Educational programs that inform about family law and women's rights after divorce can help reduce social stigma and increase understanding of the obligation to provide for maintenance. By providing adequate knowledge to the public, it is hoped that there will be a change in attitudes towards divorce and the protection of the rights of ex-wives.

Finally, to ensure that the obligation of alimony can be implemented effectively, there needs to be cooperation between the government, religious institutions, and the community. Public policies that support the protection of women's rights and uphold post-divorce justice must be strengthened. Through this collective effort, it is hoped that an environment will be created that supports the fulfillment of the rights of ex-wives, as well as encourage the community to respect and carry out the obligation of alimony madiyah properly. Thus, the principle of justice in Islamic law can be realized, providing proper protection for women after divorce and creating a more just and prosperous society.

The Obligation of Nafkah Madiyah in Positive Law

In the context of positive law in Indonesia, the obligation of alimony is regulated in various laws and regulations, including Law Number 1 of 1974 concerning Marriage and Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974. This positive

¹⁵ Agus Muchsin et al., "Fulfillment of Children 's Post-Divorce Supporting Obligations from an Islamic Law Perspective in Polewali Mandar Regency," *International Journal of Health, Economics, and Social Sciences (IJHESS)* 6, no. 4 (2024): 986–94, <https://doi.org/10.56338/ijhess.v6i4.4756>.

¹⁶ Meli Dwi Yuniar, Waluyo Sudarmaji, and M Chairul Huda, "Realization of the Implementation of Post-Divorce Child Support Obligations at the Purworejo Religious Court," *Al-'Adl* 17, no. 1 (2024): 44–56.

law provides a legal basis for the ex-wife to claim post-divorce alimony.¹⁷ However, in practice, the challenges faced in its application are quite significant. First, there is a gap between legal norms and reality in the field, where many ex-husbands do not fulfill their maintenance obligations. This creates uncertainty and losses for ex-wives who rely on the alimony for their survival. Therefore, the role of the judiciary is very important. The court must act as a law enforcer who ensures that the obligation of alimony is fulfilled in accordance with existing provisions.¹⁸ However, the biggest challenge is not only law enforcement, but also public awareness of the rights owned by ex-wives. Many women do not know their right to alimony and feel trapped in social norms that stigmatize them. Therefore, socialization and education about women's rights in the context of divorce need to be carried out intensively to empower them in demanding their rights.

One of the main challenges in the enforcement of the obligation of alimony is the lack of support from the legal system itself.¹⁹ Many ex-wives do not know the legal procedures that must be followed to claim alimony, so they miss out on the opportunity to access justice.²⁰ This lack of understanding can be caused by various factors, including a lack of legal education and lack of access to adequate information. This shows the need for legal socialization and education programs that reach the wider community, especially women who have experienced divorce. This education should include an explanation of their rights, the procedure for filing a alimony claim, and how to fight for these rights in court.²¹ In addition, legal assistance from various institutions, both governmental and non-governmental, can provide much-needed support for women in advocating for their rights. By providing adequate knowledge about their rights, it is hoped that women can be more empowered and confident in demanding the *madiyah* maintenance that they should receive. This will create higher legal awareness among the community and encourage positive changes in the implementation of *madiyah* maintenance obligations.

In the context of positive law, the court plays an important role in determining the amount of *madiyah* maintenance. The criteria used in calculating alimony often involve

¹⁷ R R Dewi Anggraeni et al., "Legality of Khulu ' Lawsuit for Wives in the Provisions of Legislation in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 20, no. 1 (2022): 34–52, <https://doi.org/https://doi.org/10.30984/jis.v20i1.181>.

¹⁸ Ibnu Amin, "The Concept of Baligh Perspective of Fiqh and Positive Law," *Al-Istinbath : Jurnal Hukum Islam* 7, no. 2 (2022): 441–66, <https://doi.org/http://dx.doi.org/10.29240/jhi.v7i2.5268>.

¹⁹ Mohammad Dhiya'ul Hafidh, "Alimony for Single Mother and Orphan from the Sharia Perspective," *Journal of Islam in Asia Special Issue Family Fiqh Issues in Malaysia* 17, no. 3 (2020).

²⁰ Thomas D Barton, *The Law — A Proactive Approach* (Springer Nature Switzerland, 2023), <https://doi.org/10.1007/978-3-031-46301-3>.

²¹ Mansari, "JURIDICAL ANALYSIS OF THE REJECTION OF MADHIAH ALIMONY FOR WIFE AND CHILDREN (STUDY OF DECISION NUMBER 251/Pdt.G/2021/MS. Mbo)," *Al-Qadha: Journal of Islamic Law and Legislation* 9, no. 2 (2022): 306–22, <https://doi.org/10.32505/qadha.v9i2.3903>.

factors such as the needs of the ex-wife and the ability of the ex-husband.²² In practice, however, court decisions are often inconsistent. This can lead to uncertainty for ex-wives, which in turn makes them reluctant to claim their rights.²³ Variations in court decisions regarding the amount of alimony can also create the perception that the law is unfair or impartial to women. Therefore, clear guidelines and consistent standards are needed for the courts in determining the maintenance of the madiyah. This will not only increase public trust in the legal system, but will also provide assurance to ex-wives that their rights will be respected.²⁴ In this regard, cooperation between the courts and institutions focusing on gender issues is essential. By conducting training and capacity building for judges and mediators, it is hoped that the courts can make decisions that are fairer and more responsive to women's needs. In addition, it is also important to develop an evaluation mechanism for court decisions related to madiyah maintenance in order to obtain relevant data for future policy improvements.

Furthermore, the issue of gender injustice in the legal system must be addressed seriously. Positive law in Indonesia is often seen as not fully responsive to women's needs and rights.²⁵ This has the potential to affect the implementation of the madiyah maintenance obligation. Women's empowerment in the legal system must be strengthened by involving women in the process of legislation and public policy, as well as increasing women's representation in the judiciary.²⁶ Involving women in decision-making processes will help ensure that gender perspectives are taken into account in every policy related to the maintenance and protection of women's rights.²⁷ In addition, the active participation of women in legal discussion forums will increase public awareness of gender issues and the protection of women's rights.²⁸ In addition, increasing legal knowledge

²² Andre Afrilian, "THE LEGAL BASIS AND CONSIDERATION OF THE JUDGE REGARDING THE STATUS OF THE WIFE IN THE CASE OF THE MAFQUD HUSBAND THROUGH DECISION NUMBER 0279/Pdt.G/2009/PA. PAS Andre," *AL-MAQASHIDI Journal of Nusantara Islamic Law* 06, no. 02 (2023).

²³ Melany Fauzia Yusuf, Mutia Cherawaty Thalib, and Sri Nanang M Kamba, "Imposition of Ex-Wife 's Post-Divorce Livelihoods : A Socio- Legal Overview," *Estudiante Law Journal* 2, no. 3 (2020): 478–91, <https://doi.org/https://ejurnal.ung.ac.id/index.php/eslaw/index> Estudiante.

²⁴ Abdurrahman Rahim, "Judges 'Consideration in the Decision of Fulfilling the Rights of Women and Children After Divorce in the Region of the DKI Jakarta High Religious Court," *International Journal of Nusantara Islam* 08, no. 02 (2020): 289–99, <https://doi.org/10.15575/ijni.v8i2.12413>.

²⁵ Arvie Johan, "The Income Tax of Breadwinner Wives in Indonesia: Law and Economics Approach," *Yuridika* 39, no. 2 (2024).

²⁶ Irfan Niat Novriyanti Giawa, "MEMPERKUAT FONDASI NEGARA HUKUM DI INDONESIA STRENGTHENING THE FOUNDATIONS OF THE LEGAL STATE IN INDONESIA," *SOSHUMDIK* 3, no. 1 (2024): 132–38, <https://doi.org/https://doi.org/10.56444/soshumdik.v3i1.1631>.

²⁷ M Dika Ramadhan, Sahuri Lasmadi, and Keywords Regulation, "Juridical Analysis of the Regulation of Same-Sex Sexual Harassment Crimes Reviewed from Indonesian Legislation Sexual harassment itself is a form of sexual behavior by making people," *PAMPAS: Journal of Criminal Law* 5 (2024): 139–56.

²⁸ I Made Suryana, Putu Ayu, and Sani Utami, "Contradictions In Indonesia 's Legal Approach To Abortion : A Study Of Reproductive Health Law And The Criminal Code," *Eduvest – Journal of Universal Studies* 4, no. 06 (2024): 4079–90, <https://doi.org/10.59188/eduvest.v4i5.1341>.

among women will encourage them to be more active in pursuing their rights.²⁹ It will also contribute to the development of more equitable and gender-oriented public policies, which in turn will strengthen the position of women in society. Thus, these measures can help create a more inclusive and responsive environment for women's rights, especially in the context of post-divorce alimony obligations.

Civil society involvement is crucial in promoting legal awareness and women's rights. Non-governmental organizations (NGOs) that focus on gender issues can act as a bridge between ex-wives and legal institutions. They can provide legal assistance, assist women in the process of prosecuting their rights, and provide information on the procedures to be followed to file a claim for alimony.³⁰ Cooperation between NGOs and courts in educating the public about their rights can create a more supportive environment for the enforcement of *madiyah* alimony obligations. In addition, NGOs can also play a role in providing advocacy to the government to strengthen policies to protect women's rights.³¹ By educating the public about alimony rights and supporting women in the legal process, these institutions can help create a culture that respects women's rights and increases accountability for alimony obligations. Furthermore, socialization programs carried out by NGOs can increase public awareness of the importance of the obligation of alimony as part of social and moral responsibility. Thus, the active involvement of civil society can have a significant impact on the implementation of the obligation to support the median and increase the bargaining position of women after divorce.³²

Additionally, it is important to create an accessible complaint mechanism for women who feel their rights have been violated. The existence of an effective complaint channel will provide space for women to report their ex-husband's non-compliance with maintenance obligations. This mechanism must be designed to be easily understood and accessible to all groups, so that women who experience difficulties can easily file complaints.³³ A transparent and responsive complaint process is essential to increase the sense of justice for ex-wives who need support. In this context, the institution that

²⁹ Simona Christina Henderika Litaay, "WOMEN'S WELFARE, STUNTING, AND ACCESS TO REPRODUCTIVE RIGHTS: AN OVERVIEW OF THE SITUATION IN INDONESIA," *JURNAL SOSIAL HUMANIORA* 1, no. 2020 (2024): 332–43.

³⁰ Natasya Aulia Putri and Jennifer Velda, "Bridging the Gap by Exploring Inequalities in Access to Land and Disparities in Agrarian Law in Indonesia," *Jurnal Ilmu Kenotariatan* 5, no. 1 (2024): 1–16, <https://doi.org/10.19184/JIK.v5i1.47416>.

³¹ Talita Syamanta et al., "Towards Feminist Justice: Reforms and Challenges in Islamic Courts for Gender Equality and Women's Rights," *SYARIAT: Akhwal Syaksyah, Jinayah, Siyasah and Muamalah* 1, no. 1 (2024): 36–57, <https://doi.org/10.35335/g9drrx81>.

³² Nurdin, "Understanding Gender Issues and Gender Inequality in Indonesia Post-Reform Era: A Development Perspective," *GLOBAL EDUCATION SCIENTIFIC JOURNAL* 5, no. 1 (2024): 332–43, <https://doi.org/https://doi.org/10.55681/jige.v5i1.xxx>.

³³ Margareth Mar and Lys Genes Rivas, "Importance of Urgent Protection Measures Issued from Justices of the Peace in the Domestic and Integral Protection of Women, Concerning the Integral Prot," *International Scientific Journal* VIII, no. 1 (2021): 215–28.

oversees complaints must have the capacity to handle complaints in a professional and fair manner.³⁴ In addition, protection for women who report non-compliance also needs to be considered so that they do not feel threatened or pressured in demanding their rights. Psychological and social support is also important to help women cope with the grievance process and maintain their mental well-being. In this way, it is hoped that a safe and supportive environment will be created for women to fight for their rights, as well as encourage ex-husbands to fulfill the obligation of alimony that has been set.

Social change is also a determining factor in the implementation of the madiyah maintenance obligation. In a society that still holds strong patriarchal norms, ex-wives are often seen as not entitled to alimony after divorce. To address these challenges, awareness campaigns that emphasize the importance of gender equality and women's rights need to be stepped up.³⁵ The public must be invited to understand that the obligation of madiyah maintenance is not only the right of the ex-wife, but also the moral responsibility of the ex-husband. The campaign must involve various elements of society, including community leaders, religious leaders, and mass media. By involving influential figures, it is hoped that the message about women's rights can be more easily accepted and understood by the community.³⁶ In addition, educational programs conducted at the school and community levels can help build awareness early on about the importance of respecting women's rights in the context of divorce.³⁷ With this holistic approach, it is hoped that there will be a change in the perception in society regarding the obligation of madiyah maintenance as part of social and moral responsibility, as well as creating a more supportive environment for ex-wives to demand their rights fairly. Through continuous education and campaigns, communities can be guided to develop a better understanding of the role of madiyah livelihood in the context of social justice and gender equality. This comprehensive approach will not only change the public's view of ex-wives after divorce, but also potentially lower the divorce rate itself by building awareness of the importance of responsibility that continues after separation.

Finally, cross-sector cooperation is very important to facilitate the implementation of the madiyah alimony obligation. Governments, legal institutions, NGOs, and communities must collaborate to create a mutually supportive system in upholding women's rights. Through this collaboration, innovative programs can be developed that not only focus on law enforcement, but also on prevention and public education. Initiatives such as service centers for ex-wives in need of legal advice and psychological support can

³⁴ S Suvetha, N Yasini, and M Yogesh, "A Web Application for Managing and Resolving Complaints of Public," *International Journal Od Scientific* 5, no. 4 (2019): 213–16.

³⁵ Khusnia Rahmawati, "AISYAH BINTI ABU BAKAR INSPIRATION FOR ACTIVISTS FIGHTING FOR GENDER EQUALITY AND WOMEN'S SOCIAL INCLUSION," *RELIGIOUS STUDY, Journal of Islamic Thought and Education* 7, no. 2 (2023): 250–59.

³⁶ Vinod Kumar, "Issues and Challenges of Women ' s Rights," *Studies in Law and Justice* 3, no. 1 (2024), <https://doi.org/10.56397/SLJ.2024.03.04>.

³⁷ Marco Evola and Julia Jungfleisch, *Of the Gender Perspective*, 2023.

be a significant first step to assist women in fighting for their rights. In addition, strengthening inter-agency networks can increase the effectiveness of responses to women's needs, especially in terms of access to justice.

With all these efforts, it is hoped that the obligation of post-divorce alimony can be better implemented, provide adequate protection for ex-wives, and create a wider awareness of women's rights in society. The fair and transparent application of the law will not only provide justice for individuals, but also contribute to the creation of a more just and equal society. Through a deep understanding of the obligation of *madiyah* maintenance from the perspective of Islamic law and positive law, we can hope that this issue will receive more attention and proper handling, thereby creating a better future for all parties involved.

Comparative Analysis of Islamic Law and Positive Law

In the context of post-divorce alimony obligations, positive legal aspects in Indonesia provide an additional dimension that needs to be considered. Positive law, which is based on the Marriage Law and other laws and regulations, regulates the mechanisms and procedures that must be followed in the divorce process and the rights of ex-wives.³⁸ For example, Law Number 1 of 1974 concerning Marriage stipulates that alimony is one of the responsibilities that must be fulfilled by the husband, including after divorce. However, the implementation of these laws often faces challenges, such as a lack of legal awareness among the public and an inability to enforce regulated rights.³⁹

One of the main challenges in the enforcement of the obligation of alimony is the difference in interpretation between Islamic law and positive law. While Islamic law emphasizes the moral and ethical responsibility of the husband to provide for the ex-wife, positive law emphasizes more on the legal procedures that the ex-wife can take to assert her rights.⁴⁰ This creates a space of uncertainty for the ex-wife, especially if the husband does not fulfill his maintenance obligations. In many cases, ex-wives are forced to take legal steps to claim alimony, which can be a long and tiring process.⁴¹

It is important to identify various factors that contribute to the low compliance of the husband in fulfilling the obligation of *madiyah* alimony. One such factor is the social stigma attached to divorce, which often puts ex-wives in a weak position. This stigma can

³⁸ Istinur Fatimah and Ahdiana Yuni Lestari, "Fulfillment of the Rights of a Wife After Divorce (Case Study of Decision Number 1866 / PDT. G/2022/PA . PT)," 2022, 140–48.

³⁹ Carissa Patricia et al., "Juridical Analysis of the Distribution of Joint Assets in Divorce According to Indonesian Positive Law," *IJRAEL: International Journal of Religion Education and Law* 2, no. 2 (2023): 172–76.

⁴⁰ Jamillah, "The Position of the Marriage Covenant in Positive Law and Islamic Law," *International Asia Of Law and Money Laundering* 3, no. 1 (2024): 23–28, <https://doi.org/https://doi.org/10.59712/iaml.v3i1.77>.

⁴¹ Siti Nur Syifa and Ahmad Izzuddin, "Comparative Study of Reasons for Divorce Based on National Marriage Laws in Indonesia and Turkiye," *Islamic Review: Jurnal Riset Dan Kajian Keislaman* 13, no. April (2024): 37–56, <https://doi.org/doi.org/10.35878/islamicreview.v13.i1.1110>.

result in the ex-wife's inability to fight for her rights, even though the law provides protection. To overcome this issue, wider public education efforts are needed to break down the negative stigma against divorce and support the rights of ex-wives in demanding alimony.⁴²

Efforts to resolve conflicts through mediation are also an important aspect in the enforcement of the madiyah maintenance obligation. Mediation can be a better alternative to the lengthy and costly litigation process. In this context, a neutral third party can act as a mediator to help both parties reach a mutually beneficial agreement.⁴³ Through mediation, the ex-husband can be invited to understand his responsibilities and, at the same time, the ex-wife can be strengthened in her position to assert her rights without the need to go through a stressful legal process.⁴⁴

From a positive legal perspective, the formulation of more proactive policies is crucial in increasing compliance with the obligation of madiyah maintenance. The government can introduce clearer and stricter regulations regarding the rights of ex-wives after divorce.⁴⁵ One of the initiatives that can be done is to create a more effective monitoring and enforcement system, including sanctions for husbands who fail to meet their obligations. With this step, it is hoped that ex-wives can feel more protected and have a clear channel to demand their rights.

Furthermore, the role of legal institutions in supporting ex-wives after divorce is very important. These institutions must be equipped with adequate resources and support to provide effective services. This service includes legal counseling, legal assistance for those who cannot afford it, and assistance in the mediation process.⁴⁶ With this approach, ex-wives can feel supported and have better access to justice, which will ultimately increase the husband's compliance with the madiyah alimony obligation.

The social aspect must also be considered in this discussion. Public understanding of the rights of madiyah maintenance needs to be improved through continuous education and campaigns. Schools, communities, and non-governmental organizations can play a role in educating the public about the importance of the obligation to provide for women's livelihood and rights. These socialization programs aim to create greater awareness about

⁴² Sobardo Hamonangan, "Custody and Obligations of Parental Alimation of Children After the Breakup of Marriage Due to Divorce in Terms of Law Number 1 Of 1974 Concerning Marriage," *PENA JUSTISIA: MEDIA KOMUNIKASI DAN KAJIAN HUKUM* 23, no. 1 (2024).

⁴³ Mustafa Yasan, "Resolution of commercial disputes by mediation as an alternative method: Resolution of business disputes through mediation as an alternative form of dispute resolution – a legal analysis of the case of Turkey and Uzbekistan 4," *Critique of Law*, no. 4 (2023): 0–3, <https://doi.org/10.7206/kp.2080-1084.648>.

⁴⁴ Sabela Gayo, "The Use Of Mediation As An Alternative Dispute Resolution In The Settlement Of Investment Disputes," *International Asia Of Law and Money Laundering* 3, no. 1 (2024): 1–9.

⁴⁵ М Жомаркизи, "MEDIATION FOR THE RESOLUTION OF INTERNATIONAL ECONOMIC CONFLICTS . EFFECTIVE APPROACHES AND PERSPECTIVES," *Електронне Наукове Видання «Аналітично-Порівняльне Правознавство»*, 2023, 194–205, <https://doi.org/https://doi.org/10.24144/2788-6018.2023.06.34>.

⁴⁶ Ikbal, "Legal Assistance for Underprivileged Communities to Access Justice within the Human Rights Perspective," *Lajil* 5, no. 2 (2023): 93–102, <https://doi.org/10.25041/lajil.v5i2.3258>.

this issue and reduce the negative stigma against ex-wives. In this way, it is expected that there will be significant behavioral changes in society, which in turn can support better law enforcement.⁴⁷

It should be noted that strengthening the guarantee of alimony can also have a positive impact on the welfare of children born from marriages that have ended. When ex-wives earn a decent living, they will have better resources to care for and educate their children. This can contribute to children's psychological and emotional stability, as well as promote their overall development. Therefore, the enforcement of the obligation to maintain the *madiyah* is not only an issue of women's rights, but also directly related to the welfare of children.⁴⁸

In the face of these challenges, it is important to emphasize the need for collaboration between governments, legal institutions, and civil society. By building a solid partnership, more innovative and effective solutions can be sought in the enforcement of *madiyah* maintenance obligations. This approach should also involve the active participation of ex-wives to ensure that their rights are respected and protected. Through this collaboration, we hope to achieve better justice and ensure that the obligation of alimony is respected and fulfilled appropriately after divorce.⁴⁹

Finally, with a better awareness of the rights and obligations of *madiyah* maintenance, society can move towards a more inclusive and equitable understanding of marriage, divorce, and shared responsibility. Developing social norms that support gender equality in terms of post-divorce alimony is an important step towards creating a more just and equal society. This effort will not only provide justice for the ex-wife, but will also benefit the entire community by reducing conflicts and building a more harmonious environment.

Conclusion

The obligation of post-divorce alimony in the perspective of Islamic law and positive law shows that the challenge in enforcing this obligation lies not only in the legal aspect, but also involves complex social and cultural dimensions. Islamic law emphasizes the importance of the husband's responsibility to his ex-wife, but there are often gaps in the implementation of positive laws that govern this. Therefore, it is very important to increase public understanding of the rights of *madiyah* maintenance, as well as strengthen the existing legal system. Our suggestion is for the government and relevant institutions

⁴⁷ Haidan Angga Kusumah et al., "The Role of Legal Aid And Consultation Agencies Faculty of Law University of Muhammadiyah Sukabumi to Prevent Domestic Violence," *IUS POENALE* Volume 4, no. 2 (2023): 125–39.

⁴⁸ Hawa' Hidayatul Hikmiyah, "PREVENTION OF CHILD MARRIAGE TO CREATE A FAMILY MAŞLAHAH BADRIYAH FAYUMI'S PERSPECTIVE," *Al-Hakam* 4, no. 1 (2024).

⁴⁹ Mu'tashim Billah, "The Maslahah of State Policy in Responding to Unregistered Marriage: Inclusion of Unregistered Marriage on The Family Card," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 6, no. 2 (2024): 136, <https://doi.org/10.30659/jua.v6i2.31138>.

to collaborate to formulate firmer and more inclusive policies in upholding maintenance obligations. Legal socialization and education programs need to be expanded, including training for law enforcement officials and the general public to create awareness of the importance of respecting and upholding women's rights. In addition, expanded access to mediation services and legal aid can help ex-wives to assert their rights more effectively, without having to go through a lengthy litigation process. These efforts are expected not only to increase husbands' compliance with the obligation of madiyah maintenance, but also to provide better support for ex-wives and their children, who are often the most affected by divorce. Thus, the enforcement of the obligation of madiyah maintenance will not only bring justice to individuals, but also contribute to the formation of a more just and equal society, as well as strengthen the values of social justice in a broader context.

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