

## **A Divorce Lawsuit Based on the Husband's Failure to Fulfill Family Obligations (A Case Study of Decision No. 350/pdt. G/2024/MS. Bna)**

*Cerai Gugat Karena Suami Perhitungan Dalam Memenuhi Nafkah (Studi Putusan Nomor: 350/pdt.G/2024/MS.Bna)*

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### **Abstrak**

*Pernikahan dalam Islam merupakan ikatan suci (mitsaqan ghalidzan) yang mewajibkan suami memberikan nafkah kepada istri, sebagaimana diatur dalam hukum Islam dan perundang-undangan Indonesia. Namun, masalah muncul ketika suami, meskipun mampu secara finansial, bersikap kikir dalam memenuhi kewajiban ini, sehingga menimbulkan ketidakharmonisan rumah tangga dan perceraian. Penelitian ini mengkaji implikasi yuridis dari sikap tersebut melalui analisis hukum normatif terhadap Putusan Mahkamah Syar'iyah Banda Aceh Nomor 350/Pdt.G/2024/MS.Bna. Tujuan penelitian adalah menganalisis dasar hukum nafkah, sikap kikir suami sebagai alasan cerai, serta pertimbangan hakim dalam memutus perkara. Dengan pendekatan yuridis normatif, penelitian menggunakan data primer dari putusan pengadilan dan data sekunder dari teori dan penelitian yang sudah ada. Hasil penelitian menunjukkan bahwa nafkah merupakan kewajiban suami berdasarkan hukum Islam (Al-Qur'an, Hadis) dan hukum nasional (UU No. 1/1974, KHI). Sikap kikir dalam pemberian nafkah, walaupun suami berada dalam kondisi ekonomi yang mencukupi, dianggap sebagai pengabaian kewajiban dan menjadi alasan sah perceraian. Kesimpulan penelitian menyatakan bahwa perspektif hukum Islam sejalan dalam menyikapi masalah ini, dengan menekankan keadilan dan tanggung jawab. Disarankan bagi peneliti selanjutnya untuk melakukan studi komparatif lebih mendalam tentang implementasi ketentuan nafkah di berbagai wilayah dengan karakteristik sosial ekonomi yang berbeda.*

**Kata Kunci:** Perceraian; Hukum Islam; Pelit.

### **Abstract**

*Marriage in Islam is a sacred bond (mitsaqan ghalidzan) that requires the husband to provide financial support to his wife, as regulated by Islamic law and Indonesian legislation. However, problems arise when the husband, despite being financially capable, is stingy in fulfilling this obligation, resulting in household disharmony and divorce. This study examines the legal implications of this attitude through a normative legal analysis of the Banda Aceh Sharia Court Decision Number 350/Pdt.G/2024/MS.Bna. The purpose of the study is to analyze the legal basis for providing support, the husband's stinginess as a reason for divorce, and the judge's considerations in deciding the case. Using a normative legal approach, the study uses primary data from court decisions and*

*secondary data from existing theories and research. The results show that providing support is a husband's obligation based on Islamic law (the Qur'an, Hadith) and national law (Law No. 1/1974, KHI). Stinginess in providing support, even if the husband is in a sufficient economic condition, is considered a neglect of obligations and is a valid reason for divorce. The study's conclusion suggests that an Islamic legal perspective aligns with this issue, emphasizing justice and responsibility. It is recommended that future researchers conduct more in-depth comparative studies on the implementation of livelihood provisions in various regions with varying socioeconomic characteristics.*

**Keyword:** Divorce; Islamic Law; Stingy Husband.

## INTRODUCTION

Marriage in Islam is a very strong contract (*mitsaqan ghalidzan*) as a form of worship and obedience to the commands of Allah SWT as stipulated in the Compilation of Islamic Law Article 2. The goal is to form a family that is *sakinah*, *mawaddah*, and *rahmah* through the fulfillment of the rights and obligations of each couple. One of the basic obligations of the husband is to provide for his wife according to the ability and qualifications that apply socially.<sup>1</sup> What is meant by alimony is to include all needs and needs that apply according to conditions and locations, such as food, clothing, shelter and so on.<sup>2</sup> In a marriage, not everything always goes as dreamed up. There are various reasons that can cause disharmony, even the end of a domestic relationship, one of which is something related to alimony.<sup>3</sup> In practice, not a few husbands are calculating in providing support, what is meant by calculation here is the attitude of a miserly or stingy husband in spending money for family needs, even though he has sufficient financial ability. This kind of attitude can trigger household disharmony that leads to divorce.<sup>4</sup>

Problems related to the husband's attitude of being too calculating in providing support often arise in domestic life. In certain contexts, this behavior not only reflects a neglect of religious obligations, but also becomes a source of tension that leads to the fracture of the marital relationship. One of the real cases that reflects this is case Number 350/pdt. G/2024/MS. Bna at the Banda Aceh Syar'iyah Court. In this case, a wife filed a divorce lawsuit because she felt that she did not get a decent living from her husband, even though the husband had a sufficient source of income. When a husband actually has adequate financial ability, but chooses not to carry out his obligations in providing support to his wife because of his stingy nature, this can be interpreted as neglecting maintenance.<sup>5</sup> This stingy nature is seen in his reluctance to meet the basic needs of the household, even though he is financially capable. This action is not just a financial issue, but also reflects injustice and a lack of responsibility in the husband-wife relationship.

Several previous researchers have shown that the topic of spousal support obligations and the legal implications when such obligations are not met have been

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<sup>1</sup> Ali Yusuf As-Subki, *Family Fiqh* (Jakarta: Amzah, 2010). p. 23.

<sup>2</sup> Hasan Ayyub, *Family Fiqh* (Jakarta: Pustaka Al-Kautsar, 2016), p. 443.

<sup>3</sup> Maksymova, Natalia Y., Yulia M. Krasilova, Maksym V. Maksymov, Julia Udovenko, and Anna M. Hrys. "Causes and Criteria of Disharmonies in Family System Functioning." *Linguistics and Culture Review*, 2021.

<sup>4</sup> Arifa Mahiro, "The Judge's View on the Determination of the Rate of Maintenance of Spouses After Divorce", *Thesis*, 2024, p. 2.

<sup>5</sup> Haghkhah, Mohammad, and Fatemeh Shirmohamadi. *Divorce at the Request of the Wife Based on the Payment of Alimony with Illegitimately Acquired Assets*. 2025.

discussed in various studies. Research by Inama Anusantari (2023),<sup>6</sup> entitled "Husbands Are Stingy to Their Wife in Providing Birth Support from the Perspective of the Qur'an and Hadith", the research concludes that a husband is financially responsible for his wife's basic living needs, including food, drink, clothing, and housing. From a Qur'anic perspective, addressing a husband's miserliness requires him to provide adequately for his wife and children. A hadith perspective further suggests that a wife is permitted to take a reasonable portion of her husband's property without his knowledge to meet her essential needs. Research by Ahmad Yani Nasution and Moh Jazuli (2020),<sup>7</sup> entitled "The Value of Wife's Maintenance in the Perspective of Classical and Contemporary Scholars", discuss about discrepancies in financial perception can lead to marital friction. A common involves a husband who believes he is providing adequately, while the wife perceives a shortfall, often influenced by comparing their standard of living to that of their peers. Research by Ibnu Rozali (2017),<sup>8</sup> entitled "The Concept of Providing Maintenance for the Family in Islam", regarding the forms of sustenance provided to a wife, it can be stipulated in various ways, such as basic needs like food, side dishes, clothing, or certain items. Furthermore, sustenance can also be substituted with an amount of money equivalent to the value of those needs. The timing of its provision is also flexible; it can be done annually, monthly, weekly, or daily, depending on the husband's ability and financial ease. Research by Putri (2023)<sup>9</sup>, entitled "Legal Issues Related To Maintenance For Former Wives Of Civil Servants, Examining From The Perspective Of Legal Pluralism In Indonesia". The result show Alimony is regulated by Indonesian laws and regulations, regulated in Article 225 of the Civil Code, Article 149 in conjunction with Article 158 of the Compilation of Islamic Law, and Article 8 of Government Regulation Number 10 of 1983. However, in practice, there are still inconsistencies in the implementation of the alimony granting mechanism.

Another aspect of research focuses on the determination and assessment of maintenance. Classical and contemporary Islamic scholars acknowledge that differing perceptions of maintenance are often a source of marital conflict. While a husband may perceive the maintenance provided as sufficient, a wife may perceive it as inadequate, especially when social comparisons influence expectations. Furthermore, the literature explains that maintenance is flexible in form and timing. Maintenance can be provided in kind or cash and can be fulfilled daily, weekly, monthly, or annually, depending on the husband's financial capacity. This flexibility reflects Islamic law's ability to adapt to diverse socio-economic contexts, while still emphasizing the principle of justice. In the context of Indonesian positive law, studies indicate that maintenance obligations are regulated through various legal instruments, including the Criminal Code (KUHP), the Compilation of Islamic Law, and certain government regulations, particularly for civil servants. However, empirical legal studies indicate that inconsistencies persist in the implementation of maintenance provisions, particularly in post-divorce situations. This

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<sup>6</sup> Anusantari, Inama. "Suami Pelit Terhadap Istri dalam Memberikan Nafkah Lahir Perspektif Al-Qur'an dan Hadits." *JLAWS: Journal Law Ash-Shiddiqiyah* 1, no. 1 (2023): 33.

<sup>7</sup> Ahmad Yani Nasution dan Moh. Jazuli, "Nilai Nafkah Istri dalam Pandangan Ulama Klasik dan Kontemporer," *Teraju: Jurnal Syariah dan Hukum* 2, no. 2 (2020): 141.

<sup>8</sup> Ibnu Rozali, "Konsep Memberi Nafkah bagi Keluarga dalam Islam," *Intelektualita* 6, no. 2 (2017): 189.

<sup>9</sup> Putri, D. E. K. "Permasalahan Hukum Terkait Nafkah bagi Mantan Istri PNS, Ditinjau dari Perspektif Pluralisme Hukum di Indonesia." *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 12, no. 2 (2023): 223–39.

inconsistency highlights the gap between normative legal provisions and their practical enforcement in the judicial system.

Despite extensive research, the existing literature remains largely normative or conceptual in nature and does not sufficiently engage with judicial practice, particularly regarding how a husband's stinginess or calculating behavior, despite having sufficient financial capacity, is legally constructed as a valid reason for divorce. There is limited research that systematically analyzes judicial reasoning in religious court decisions to assess how Islamic law and positive law converge in addressing this issue. Therefore, this study fills an important gap by conducting a legal analysis of a husband's calculative attitude toward providing maintenance as a legally recognized ground for divorce, as examined through the Banda Aceh Sharia Court Decision No. 350/Pdt.G/2024/MS.Bna. By focusing on concrete court decisions, this study strengthens the factual background and directly links doctrinal legal norms with their application in religious court practice.

Based on this background, the purpose of this article is to examine the obligation of maintenance within the framework of Islamic family law, beginning with its legal basis. This study further analyzes the husband's calculative attitude toward providing maintenance as a recurring justification in divorce claims, assesses the principles for determining fair maintenance by considering the wife's needs and the husband's financial capabilities, and evaluates the legal considerations used by judges in adjudicating these cases. Through this approach, this study seeks to contribute to a more practice-oriented understanding of maintenance obligations and divorce proceedings within the Indonesian Religious Court system.

## **RESEARCH METHODS**

This research uses a normative juridical approach, which is a type of legal research that focuses on written laws and regulations. This research can also be based on rules or norms that apply in society.<sup>10</sup> The focus of the research lies in the analysis of the Decision of the Banda Aceh Syar'iyah Court Number 350/pdt. G/2024/MS. In order to understand how the judge assesses the husband's calculation attitude as the basis for a divorce lawsuit. Furthermore, data collection is carried out through literature studies, namely by examining legal documents, literature books, scientific journals, and other relevant sources. The data used consisted of primary data in the form of court decisions, and secondary data that served to support, strengthen, and provide additional explanations for primary legal sources.<sup>11</sup> The data analysis technique used in this research is prescriptive normative analysis, which aims to formulate legal arguments and draw conclusions regarding how the law should be applied in cases involving neglect of maintenance obligations. Through this analytical framework, the study not only describes existing legal norms and judicial practices but also evaluates their coherence and consistency in achieving justice and legal certainty within the context of Islamic family law.<sup>12</sup>

## **DISCUSSION**

### **Case Analysis Begins**

The case began with the marriage between the plaintiff (wife, born October 13, 1994, age 30, high school graduate, private employee) and the defendant (husband, born

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<sup>10</sup> Muhammad Siddiq Armia, *Determining Legal Research Methods and Approaches*, (Banda Aceh: Indonesian Institute for Constitutional Studies, 2022), p. 8.

<sup>11</sup> Muhammad Syarif et al., *Legal Research Methods*, (Padang City: Get Press Indonesia, 2024), p. 153.

<sup>12</sup> Sigit Sapto Nugroho et al., *Legal Research Methodology*, (Oase Pustaka, 2020), p. 94.

January 31, 1983, age 41, bachelor's degree, private employee). They legally married on December 2, 2016, at the Religious Affairs Office (KUA) in Baiturrahman District, Banda Aceh City. The marriage was recorded in Marriage Certificate Extract Number XXXXXX, dated December 2, 2016. At the time, both were domiciled in Banda Raya District, Banda Aceh City. After their marriage, the couple lived together at the defendant's (husband's) parents' house in Gampong Lam Lagang, Banda Raya District, Banda Aceh City. According to the plaintiff's complaint, their marriage initially ran harmoniously. They were blessed with one son named XXXXXX (NIK XXXXXX, born in Banda Aceh on February 4, 2018, 6 years old at the time of the verdict, attending kindergarten). This child has been raised by his biological mother (the plaintiff) since birth.

Despite the harmonious relationship, the seeds of conflict were evident from the beginning. The plaintiff stated that the defendant resigned from his job nine months after the marriage (around August 2017), received severance pay and BPJS (Social Security) benefits of approximately IDR 130 million, but was not transparent about how they were used. The plaintiff became pregnant in October 2017, and throughout the pregnancy, the defendant rarely provided additional support for the baby's needs, often stating, "I don't have any money." The plaintiff eventually purchased gold jewelry (21 mayam gold bars + 30 grams of Antam gold) from the severance pay to save for the child's future. During the defendant's three-month unemployment, he provided a monthly allowance of IDR 1 million, but consistently questioned the details of his expenses with suspicion. The defendant also had an online business (selling audio connectors) with a monthly income of Rp2.5 million, but most of that money was used to pay his in-laws' house bills (electricity, water, Wi-Fi). At this stage, the household was still stable, but financial non-transparency became a recurring pattern, which eventually led to escalation.

Since 2020, the household has begun to crumble as the defendant has become increasingly withdrawn and calculating in providing for both physical (economic needs such as food, clothing, and shelter) and spiritual (intimate and emotional relationships). The plaintiff alleges that the defendant often says "I don't have any money" when asked for help, even though the defendant has an income (a salary of Rp 3 million/month before the layoff). The plaintiff has wanted a second child since 2020, but the defendant refused, and intimate relations are only at the defendant's initiative (rarely, every 3-4 months). The plaintiff stopped trying after the defendant said, "None of this will happen if it's not my will." At the end of 2022, the child's school fees (PAUD) were Rp 400,000 (two months) in arrears. The plaintiff asked for a loan, but the defendant refused. The plaintiff sold jewelry inherited from her father. Early in 2023, the child had a cough for two months. The plaintiff asked to see a specialist, but the defendant refused again ("no money"). The plaintiff borrowed Rp 500,000 from her mother. Shortly after, the plaintiff saw a notification on the defendant's phone: the defendant's younger sibling had borrowed money, and the defendant had sent the account number.

In August 2019, the plaintiff planned to buy a house due to a dust allergy at her in-laws' house. The defendant contributed Rp 35 million from her severance pay, but the plaintiff's primary funds were: a Rp 30 million loan from Bank Mandiri (Rp 1.15 million installments/3 years), Rp 40 million from the plaintiff's mother at BRI, a 16 mayam dowry mortgage, and a gold/cash loan from her mother's friend. The house was purchased in cash, in the defendant's name ("I am the head of the household"), but the Deed of Sale and Purchase (AJB) was kept by the plaintiff's mother due to a conflict. The house remained unoccupied for two years due to renovations (the roof leaked, the kitchen

collapsed, etc.), and during that time, the financial conflict worsened: the plaintiff was transparent (the defendant knew her ATM PIN), but the defendant hid her PIN.

In early 2022, the plaintiff took over the finances, but the defendant demanded detailed information (down to parking fees). The plaintiff returned the money but demanded the defendant pay the remaining Mandiri loan (one year). Since then, the defendant stopped giving her Rp 1 million per month, citing her salary of Rp 3 million. The plaintiff was responsible for the main expenses (children's schooling, snacks, and food and clothing). During this period, her husband's stinginess became a systematic pattern, fueling distrust and emotional alienation, which aligns with the concept of reverse nusyuz in Islamic law.

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In March 2023, the defendant was laid off and received Rp 10 million in severance pay, but did not share it with the plaintiff. The plaintiff claims he helped her during her downfall, but the defendant accused her of being unwilling to help and of seeking a divorce to "seek happiness with another man." The plaintiff denies this, but admits to frequently being caught chatting with/going out with other men (photo evidence of the defendant's WhatsApp chats). In 2023, the defendant forced her to make a sacrifice despite her refusal (she lacked funds), claiming to have saved the money herself (she was unaware). In late 2022, the defendant performed the aqiqah (circumcision) for her child from a secret savings account. The argument culminated in 2023, when the plaintiff asked for permission to leave the house. Since November 8, 2023, they have been separated: the plaintiff lives in the house she purchased in 2019 (to which her husband claims the

rights), and the plaintiff's administrative affairs remain in Gampong Lam Lagang. They have not had a marital relationship for three years.

The family offered advice, but this was unsuccessful because the plaintiff still wants a divorce (the defendant lacks good faith). The first lawsuit (No. 62/Pdt.G/2024/MS-Bna, April 2024) was dismissed, and the defendant forgave the plaintiff. From April to September 2024, the defendant attempted to meet the child (bringing food/milk), but the plaintiff chased him away, shouting "thief." The defendant approached to inquire about the plaintiff's beach trip with another man. He became angry, scratched the plaintiff's hand, and hit her buttocks with a helmet (the plaintiff avoided). The plaintiff retaliated (her husband received four stitches, a black eye, and a numb head). The plaintiff's mother witnessed the incident but did not seek help from neighbors. The defendant pronounced divorces 1, 2, and 3 in front of the plaintiff's mother. The plaintiff asked the defendant to leave so that residents wouldn't find out.

This escalation demonstrates a stingy attitude not only financially but also triggers implicit domestic violence and a breakdown in communication. Court Process and Verdict (October-December 2024). On October 8, 2024, the plaintiff filed a second lawsuit (registered on October 14, 2024). The dispute has been ongoing since 2020, including a lack of financial support, separation, and failed reconciliation. Divorce is due in 1 bain sughra, child's right to hadhanah, iddah support of IDR 1 million, child support of IDR 1.5 million/month (5-10% increase/year, excluding education/health), and withholding of the divorce certificate until payment is made. The initial hearing was held on October 31, 2024, with both parties present electronically. The judge attempted reconciliation, but failed. Mediation by a non-judge mediator (November 14, 2024) failed. The defendant's response (November 18, 2024) was to admit the facts, but accuse the plaintiff of infidelity, assault, and demanding a division of the house/dowry. Denies this, stating that the wife's contribution was clearly greater. The defendant did not submit a duplicate. Plaintiff's evidence: ID card, family card, marriage/birth certificate, witnesses (the plaintiff's mother and friend). The defendant did not present any substantial evidence.

The defendant concluded on December 10, 2024 (still with the answer). The judge deliberated on December 9, 2024, and decided on December 19, 2024: Granting the lawsuit, 1 bain sughra divorce, hadhanah for the wife (husband's access), child support of IDR 1 million per month plus inflation, iddah of IDR 1 million (pre-deed payment), and court costs of IDR 436,500 to the plaintiff. This case began with a harmonious marriage in 2016, which was fractured due to the husband's stinginess in 2020, culminating in violence and divorce in 2024, and ultimately, the divorce verdict. This is an example of how neglect of maintenance is a reason for syiqaq, with the judge prioritizing the protection of the wife and children.

### **Legal Basis of the Obligation to Fulfill Alimony**

Applying the meaning of research results, how research results can solve problems. The results should summarize the research findings, not detailed data. It is recommended to provide an overview of the differences between the results of your research and previous research. If deemed necessary, the results and discussions are consolidated or developed into several sub-discussions. Discussion, is the most important part of your article. Here you get a chance to explore your data. It usually starts by summarizing research findings and then discussing them with relevant theories or references. The theory or reference used must be accompanied by a clear reference source.

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The role of the husband as a leader in the family is inseparable from the various challenges of life. A husband also acts as a father to his children and bears the responsibility of providing for all members of his family. This responsibility includes providing for his wife and children. This is in line with the words of Allah SWT in Surah An-Nisa verse 34, which reads:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَاللَّيِّنَاتُ خَافِعُونَ لِّشُؤْرَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنِ اطَّعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

*Men (husbands) are in charge of women (wives) because Allah has given some of them (men) more than others (women) and because they (men) have provided for some of their wealth. Righteous women are those who are obedient (to Allah) and take care of themselves when (their husbands) are not there because Allah has taken care of (them). Women whom you are worried about, give them advice, leave them on the bed, and (if necessary,) beat them (in a painless manner). However, if they obey you, do not seek to trouble them. Indeed, Allah is the Most High and the Greatest. (Q.S. An-Nisa:34)*

From this postulate, it can be concluded that men are given the responsibility as leaders in the family, with one form of this responsibility being the obligation to provide for his wife and children. This is based on the advantages that Allah bestows on men in terms of social and economic responsibility. On the other hand, women have privileges that support domestic tranquility and educate children. Thus, this verse regulates the division of roles between husband and wife in a balanced manner according to their respective natures and abilities, in order to build a harmonious and responsible family.<sup>13</sup>

In addition, Allah says in surah Al-Baqarah verse 233 which reads:

وَعَلَى الْمَوْلُودِ لَهُ ۖ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ...

... It is the duty of fathers to cover their food and clothing in a proper manner.  
(Q.S Al-Baqarah: 233)

The excerpt from the above verse explains that the husband has the responsibility to provide food and clothing to the wives. The verse is a form of command, but it is conveyed in the form of a news sentence (*al-Amru bishīghat al-khabar*), which is used to give affirmation or emphasis (*li al-Mubalaghah*). The obligation to provide for the family is based on the husband's position as the leader in the household.<sup>14</sup>

Islam also regulates the obligation of maintenance through a hadith that states that the husband is responsible for the needs of his wife and children, which reads:

<sup>13</sup> Muhammad Achid Nurseha and Siti Rokhmah, "Tafsir Surah An-Nisa Verse 34 Concerning the Responsibility of Breadwinners from the Perspective of Indonesian Mufasssir (Tafsir Marah Labid by Sheikh Nawawi Al-Bantani, Tafsir Al-Azhar by Hamka, and Tafsir Al-Misbah by Quraish Shihab), *Journal of Qur'an and Hadith Studies*, Vol. 3 No. 1, 2023, pp. 78-79.

<sup>14</sup> Taufik et al, "The Rights and Obligations of Husband and Wife in the Qur'an", *Journal of Sharia Economic Studies*, Vol. 3 No. 1, Year 2021, p. 4.



وَعَنْ حَكِيمِ بْنِ مُعَاوِيَةَ، وَ عَنْ أَبِيهِ قَالَ : قُلْتُ : يَا رَسُولَ اللَّهِ ! مَا حَقُّ زَوْجٍ أَحَدٍ نَا عَلَيْهِ قَالَ : تُطْعِمُهَا إِذَا أَكَلْتَ وَ تَكْسُوْهَا إِذَا اكْتَسَيْتَ وَ لَا تَضْرِبُ الْوَجْهَ وَ لَا تُفْبِّحُ وَ لَا تَجْهَرُ إِلَّا فِي الْبَيْتِ. ( رواه أحمد أبو داود نسائي ) ابن ماجه

*From Hakim bin Muawiyah, from his father he said, "I ask, O Messenger of Allah, what is our obligation to his wife? He replied, "You feed him if you eat, you give him clothes if you are clothed, do not hit him in the face, do not slander, and do not separate (from his bed), except in the house. (HR. Ahmad, Abu Daud, Nasa'I, Ibn Majah).*

The hadith explains that the husband has a responsibility to his wife in the form of several important obligations. First, the husband is obliged to meet the wife's basic needs such as clothing, food, and shelter. Second, husbands are prohibited from treating their wives with violence, including not being allowed to hit her face. Third, the husband is also obliged to meet his wife's biological needs or mental sustenance, including not leaving her without a justified reason.<sup>15</sup>

In line with Islamic teachings, Indonesian national law also regulates this through Law Number 1 of 1974 concerning marriage. In article 34 paragraph (1) it is stated that "The husband is obliged to protect his wife and provide everything for the needs of domestic life according to his ability". The needs of domestic life in question are maintenance, clothing, shelter, and medical expenses, even if the wife comes from a family member. If the husband neglects his obligation to provide maintenance, then according to the provisions of the law, the wife has the right to file a lawsuit with the Court. This is in accordance with the provisions of Article 34 paragraph (3) which reads "If the husband or wife neglects their obligations, each of them can file a lawsuit with the Court".<sup>16</sup>

The Compilation of Islamic Law also contains provisions regarding the husband's obligation to provide maintenance to his wife. This is stated in Article 80 paragraphs (2) and (4) which reads:

- (2) Husbands are obliged to protect their wives and provide everything they need for domestic life according to their abilities.
- (4) According to his income, the husband bears
  - a. Alimony, kiswah and place of residence for wives
  - b. Household expenses, maintenance costs and medical expenses for wives and children.
  - c. Tuition fees for children.

Based on the provisions stated in Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI), it can be concluded that a husband has an obligation to provide maintenance to his wife. This provision of alimony is an important responsibility after the husband submits the dowry as part of the marriage contract.<sup>17</sup>

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<sup>15</sup> Samsul Bahri, "Maintenance Obligations in the Family (A Comparative Study of Islamic Law and Law in Indonesia Against Wives Earning Bread", *Journal of Islamic Law and Law*, Vol. 11 No. 1, 2024, p. 69.

<sup>16</sup> Tike Putri Nofiyanti, The Husband's Maintenance Obligation to His Wife in the Perspective of Islamic Law and Law Number 1 of 1974 concerning Marriage (Study at the Sorong Religious Court). *Legal Journal*, Vol 2, No. 2, 2022, p. 166.

<sup>17</sup> Riyan Erwin Hidayat and Muhammad Nur Fathoni, "The Concept of Maintenance According to Muhammad Syahrur and the Compilation of Islamic Law", *Journal of Islamic Family Law*, Vol. 2, No. 2, 2022 p. 162.

### **Husband's Calculation Attitude in Providing Alimony as a Reason for Divorce**

The term calculation in Decision No. 350/Pdt.G/2024/MS. Bna refers to the husband's stingy or miserly attitude towards his wife and children in fulfilling the basic needs of the household. In Arabic, the nature of miserliness is generally known as *bakhil*. However, the Qur'an does not use just one term to describe this despicable behavior. In addition to the word *bakhil*, there are also other terms that contain similar meanings, namely *as-syuhh*. *Bakhil* is a miserly attitude or reluctance to share, which is the behavior of a person who deliberately refrains from giving part of his wealth to others, even though he has the ability to do so. Furthermore, what is meant by the term *as-syuhh* is greedy which is characterized by excessive and uncontrollable desire to continue to increase wealth, even though a person has a sufficient amount of wealth or even an abundance.<sup>18</sup>

In this case, the Plaintiff clearly stated that the Defendant was "very calculating in providing maintenance", and the facts of the trial show that what is meant by the "calculation" is a form of deliberate and repeated neglect of maintenance, even accompanied by the concealment of financial information. From the verdict, it can be seen that the Defendant's behavior of refusing to be open about income, hiding severance pay, and repeatedly not giving money for the needs of the child under the pretext of not being able to afford it, even though he was then able to sacrifice and give loans to other parties, this is evidence that the attitude of calculation is contrary to the husband's obligations according to Islamic law and positive Indonesian law.<sup>19</sup>

The behavior of a husband who is stingy or miserly in providing sustenance was once mentioned in a hadith about Hindun bint ' *Utbah radhiallaahu'anha*, when he complained to the Prophet Nabi SAW.

عَنْ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - قَالَتْ : دَخَلَتْ هِنْدُ بِنْتُ عُتْبَةَ - امْرَأَةُ أَبِي سُفْيَانَ - عَلَى رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَتْ : يَا رَسُولَ اللَّهِ ، إِنَّ أَبَا سُفْيَانَ رَجُلٌ شَحِيحٌ لَا يُعْطِينِي مِنَ النَّفَقَةِ مَا يَكْفِينِي وَيَكْفِي بَنِي ، إِلَّا مَا أَخَذْتُ مِنْ مَالِهِ بِغَيْرِ عِلْمِهِ ، فَهَلْ عَلَيَّ فِي ذَلِكَ مِنْ جُنَاحٍ؟ فَقَالَ : خُذِي مِنْ مَالِهِ بِالْمَعْرُوفِ مَا يَكْفِيكَ وَمَا يَكْفِي بَنِيكَ» مُتَّفَقٌ عَلَيْهِ

*From Aisyah RA, she said: Hindun daughter 'Utbah, the wife of Abu Sufyan, entered to the Prophet PBUH and said: O Messenger of Allah, Abu Sufyan was indeed a miserly man. He did not provide me with enough support for me and my children other than what I took from some of his possessions without knowing it. Am I sinning because of my deeds? Then the Prophet PBUH said: Take by yourself some of his wealth in a good way enough for you and your children. (Muttafaq 'Alaih).*

This hadith emphasizes that a husband is obliged to provide support to his wife. If the husband is negligent or deliberately makes it difficult to provide support, then the wife who is indeed entitled to the sharia may take her husband's property enough to meet her needs. This provision shows that Islam provides protection to those who are entitled to a living so that their needs are still met. However, these rights are bound by certain

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<sup>18</sup> Nurfutiha, et al., "Misery in the Qur'an (Study of Lafadz Al-Bukhl and Ash-Syuhh According to Tafsir Fii Zhilalil Qur'an), *Journal of Imlu-Ilmu Al'an*, vol. 5, No. 2, 2024, p. 279.

<sup>19</sup> Ruslan, D. A. R. "Tinjauan Hukum terhadap Upaya Mantan Istri dalam Memperjuangkan Hak Nafkah yang Tidak Dipenuhi oleh Mantan Suami." *USRAH: Jurnal Hukum Keluarga Islam* 6, no. 2 (2025): 117–29.

rules that must be met. One of the conditions is that the wife is unable to ask directly to her husband, for example because the husband is very stingy, rude, cannot be met, or is not in place.<sup>20</sup> In such a situation, the wife can take alimony without her husband's permission. Another condition is that the property taken must be in accordance with reasonable needs or as much as the dependents of the usual maintenance provided. For example, if the husband usually gives spending money of one million rupiah per month and he leaves without news for three months, then the wife can take three million rupiah from her property, no more.<sup>21</sup>

As a tangible form of calculation carried out by the husband, this case shows a serious impact that arises in domestic life, which is basically a form of neglect of the husband's obligations. One of the most visible impacts is the frequent occurrence of conflicts in the household. Although conflict is a natural part of married life, the resolution depends heavily on open communication and the availability of both parties to understand each other.<sup>22</sup> In this case, the conflict actually heated up because the husband was closed about finances, so that the quarrels continued to recur without any common ground.<sup>23</sup> As mentioned earlier related to the legal basis of the obligation to fulfill alimony, it can be concluded that when the husband not only fails to meet alimony, but also shows an attitude of not being open, difficult, and withholding property that should be used for the family, then this can be considered a form of harm in the household, which is a valid reason for divorce and lawsuit.

### **Analysis of Judges' Considerations**

Judicial power is expressly regulated in Chapter IX Article 24 and Article 25 of the 1945 Constitution, and clarified in Law Number 48 of 2009 concerning Judicial Power. The 1945 Constitution provides guarantees for the independence of judicial power, which is clearly affirmed in Article 24 paragraph (1) and the explanation of Article 1 paragraph (1) of Law No. 48 of 2009 which reads:

"Judicial power is the power of an independent state to administer justice to uphold law and justice based on Pancasila and the 1945 State Law of the Republic of Indonesia for the implementation of the Rule of Law of the Republic of Indonesia".

Judicial power is an independent power, which means that it must not be influenced by any other party outside the judicial body, except as specifically provided for in the 1945 Constitution. The main function of the judiciary is to uphold the law and realize justice based on Pancasila and laws and regulations. Therefore, although judges have freedom in carrying out their judicial duties, these freedoms are not absolute, but must still be directed to reflect the sense of justice of Indonesian society.<sup>24</sup>

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<sup>20</sup> Ainul, V. F. "Putusan Hakim Agama dalam Masalah Cerai Gugat pada Suami yang Tidak Memberi Nafkah: Perspektif Hukum Positif dan Hukum Islam." *The Indonesian Journal of Islamic Law and Civil Law* 3, no. 2 (2022): 201–14.

<sup>21</sup> Abdullah Amjad Al-Fairu, "Wife Takes Her Husband's Property Without Permission (Study of Hadith Khuzi Ma Yakfiki wa Waladaki bilMa'ruf)", *Thesis*, 2020, pp. 60&63.

<sup>22</sup> Angga Andrian Saputra, "The Impact of Neglect of Husband's Maintenance on Career Wives According to Fiqh Views (Research in Kuta Makmur District, North Aceh Regency)", *Thesis*, 2022.

<sup>23</sup> Rufaida, R., and M. T. Madani. "Kelalaian Tanggung Jawab Suami sebagai Alasan Gugat Nafkah Istri." *Kabillah: Journal of Social Community* 9, no. 1 (2024): 229–42.

<sup>24</sup> Novi Yanti, "Analysis of Judges' Considerations in Imposing a Sentence of Acquittal Against Parents as Perpetrators of the Crime of Child Murder According to Islamic Criminal Law (Case Study of the Bireuen District Court Decision Number 115/Pid.B/2022/PN. Beer)", *Thesis*, 2023, p. 19.

In deciding this lawsuit divorce case, the Panel of Judges of the Banda Aceh Syar'iyah Court used a comprehensive formal and material legal approach, and reflected the application of positive legal norms and principles of justice in Islamic law. The case was filed by the wife (Plaintiff) against her husband (the Defendant), on the grounds of prolonged conflict, lack of financial and emotional responsibility from the Defendant, and a house separation that has been going on since November 2023. In examining the case, the judge first determines the absolute and relative authority of the Syar'iyah Court in accordance with Article 49 letter a of Law No. 3 of 2006 and Article 142 of the Criminal Code.

The panel of judges stated that mediation efforts as mandated by article 82 paragraphs (1) and (4) of Law No. 7 of 1989 jo. PERMA No. 1 of 2016 had been carried out, but were unsuccessful. Therefore, the examination of the subject matter continues. In the evidentiary process, the panel received evidence in the form of letters (marriage certificate, family history, birth certificate) and the testimony of two witnesses that corroborated the Plaintiff's arguments, including the fact that the Defendant had pronounced the pledge of talaq on September 13, 2024. Based on these facts, the panel is of the opinion that the households of the parties have experienced continuous disputes and quarrels, which legally fulfills the grounds for divorce as stipulated in Article 19 letter f of Government Regulation No. 9 of 1975 and Article 39 paragraph (2) of Law No. 1 of 1974.

Regarding post-divorce alimony, the panel of judges determined the Defendant's obligation to provide iddah alimony, mut'ah alimony and hadhanah alimony for children. This is in line with the provisions of Article 149 letters a, b, and d of the KHI, as well as Article 156 letter d of the KHI, which requires the husband to give mut'ah, iddah maintenance, and child maintenance costs according to ability. The amount of alimony is determined based on the Defendant's economic condition and the needs of the child, taking into account the principle of *al-maslahah al-mursalah* (benefit) and avoiding *al-dharar* (harm), which is part of *maqashid al-shari'ah* in Islamic law.

In the ruling, the panel granted the Plaintiff's lawsuit, imposed talaq one ba'in sughra, assigned child custody to the Plaintiff, and required the Defendant to pay child support of Rp 1,500,000 per month with an annual increase of 5-10% until the adult child. The panel considers the principle of justice in determining the amount of alimony, with the aim of not overburdening one party and ensuring that the welfare of the child remains guaranteed. Thus, the decision of the panel of judges reflects the application of positive law in combination with the values of justice in Islamic law. This approach shows a balanced legal protection of the rights of women and children, as well as providing legal certainty in the divorce process.

As is known, marriage in Islam is a sacred bond (*mitsaqan ghalidzan*) that should be maintained by both parties. However, this decision actually allows divorce on the grounds of the husband's calculated attitude in providing alimony. The question that arises is why the wife does not take advantage of other alternatives that are allowed in Islam, such as taking her husband's property without permission as exemplified in the hadith Hindun bint Utbah? Does this ruling not potentially create the assumption that divorce is an easy solution to domestic conflicts?

The author argues that the judge's decision in this case does not necessarily reflect a weakening of the values of marital commitment, but rather affirms the principles of justice and responsibility in Islamic law. Although Islam provides leniency for wives to take their husband's property properly under certain conditions, this is temporary and does

not solve the root of the problem, namely the husband's reluctance to fulfill his basic obligations. In this case, mediation efforts have been made but unsuccessful, so divorce is the last option to stop the greater harm. The judge in deciding this case takes into account the principles of justice and the protection of the rights of the weak. The ruling reflects the awareness that divorce is not just about breaking the marriage bond, but also about ensuring that the rights of wives and children remain guaranteed post-divorce.

Thus, this ruling affirms that marriage must be built on the basis of justice and responsibility. Divorce therefore cannot be seen as an easy solution, but as a legitimate and just solution when all attempts at redress have failed.

## **CONCLUSION**

This study concludes that a husband's calculative or stingy attitude in fulfilling alimony obligations, when proven to occur despite adequate financial capacity, constitutes a form of legal neglect that may validly ground a divorce claim. In Decision Number 350/Pdt.G/2024/MS.Bna, the Banda Aceh Syar'iyah Court established that the husband's failure to provide proper and proportional maintenance went beyond subjective financial disagreement and amounted to a breach of legally enforceable obligations. The court's reasoning demonstrates a substantive approach to adjudicating maintenance disputes, emphasizing actual fulfillment of alimony based on concrete evidence, including income, expenditure patterns, and the wife's unmet basic needs. The decision reflects the application of justice, legal certainty, and benefit (*maslahah*), while ensuring post-divorce rights such as *iddah* maintenance, *mut'ah*, and child support are determined according to the husband's financial ability. Legally, this study affirms that neglect of maintenance due to a calculative attitude can be consistently recognized as a legitimate ground for divorce within Religious Court practice, thereby strengthening legal protection for wives and children. Academically, it contributes to Islamic family law by linking normative principles with judicial practice and underscores the need for further comparative studies on alimony adjudication across different regions in Indonesia.

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