

ABSTRAK

NAFAQOH AL-MUT'AH DAN NAFAQOH AL-'IDDAH TERHADAP ISTERI PASCA CERAI GUGAT: PERSPEKTIF FIQIH MUNAKAHAT

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Penelitian ini berangkat dari kebutuhan akan perlindungan hukum yang adil bagi perempuan pasca perceraian, khususnya dalam cerai gugat yang sering dipersepsikan sebagai bentuk *nusyuz*. Padahal, cerai gugat diajukan atas alasan sah, seperti pelanggaran kewajiban suami, sehingga tidak dapat dikategorikan sebagai *nusyuz*. Penelitian ini bertujuan untuk: (1) mengetahui *nafaqah al-mut'ah* dan *nafaqah al-'iddah* dalam kaitannya dengan norma hukum di Indonesia bagi istri pasca cerai gugat, dan (2) mengetahui pandangan *fiqh munakahat* terhadap *nafaqah al-mut'ah* dan *nafaqah al-'iddah* bagi istri pasca cerai gugat. Dengan pendekatan normatif melalui studi pustaka, penelitian ini menemukan bahwa KHI hanya mengakomodasi hak-hak istri pasca cerai talak, sementara dalam cerai gugat terjadi kekosongan hukum yang berdampak pada ketidakjelasan hak *nafaqoh al-mut'ah* dan *al-'iddah* bagi istri. Hasil penelitian menunjukkan bahwa cerai gugat bukanlah kategori *nusyuz* karena diajukan berdasarkan alasan sah, seperti pelanggaran kewajiban suami. Dari segi pengertian sendiri sudah jelas bahwa cerai gugat tidak termasuk *nusyuz*, yang mana makna dari *nusyuz* ialah pembangkangan atau tidak melaksanakan kewajiban yang seharusnya dilakukan dengan sengaja. *Nafaqoh al-'iddah* dan *al-mut'ah* merupakan hak isteri yang timbul pasca perceraian, termasuk dalam cerai gugat. Seharusnya isteri yang melakukan cerai gugat tetap mendapatkan *nafaqoh al-'iddah* dan *al-mut'ah* dengan alasan: 1. *Nafaqoh al-'iddah* merupakan kewajiban suami selama masa *'iddah* berdasarkan hukum islam, 2. *Nafaqoh al-mut'ah* adalah pemberian wajib sebagai bentuk penghormatan dan penghiburan bagi isteri pasca perceraian, 3. Dalam perspektif fiqih, cerai gugat umumnya dilakukan atas alasan syar'i, sehingga tidak menggunakan hak isteri untuk mendapatkan *nafaqoh al-'iddah* dan *al-mut'ah*. Dari sini terlihat bahwa dalam KHI sendiri adanya kekosongan hukum yang membutuhkan pembaruan (Amandemen), mengenai hak-hak istri pasca cerai gugat dan juga mengenai penegasan bahwasanya cerai gugat tidak termasuk *nusyuz*. Dari segi pendekatan, KHI tetap menyerupai gagasan para peneliti sebelumnya. Perspektif dan konteks umat Islam Indonesia belum tertanam secara baik dalam rumusan perundang-undangan KHI. Penelitian ini merekomendasikan pembaruan konsep *nusyuz* dalam KHI agar mencakup tindakan suami yang melanggar kewajibannya. Dengan demikian, diharapkan sistem hukum keluarga Islam dapat menciptakan perlindungan yang lebih seimbang dan merata.

Kata Kunci: Cerai gugat, *nafaqoh al-mut'ah*, *nafaqoh al-'iddah*, *fiqh munakahat*

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ABSTRACT
NAFAQAH AL-MUT'AH AND NAFAQAH AL-'IDDAH FOR
WIFE AFTER LAWSUIT DIVORCE: PERSPECTIVE OF *FIQH*
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This study arises from the need for fair legal protection for women after divorce, particularly in lawsuit divorce, which is often perceived as a form of *nusyuz* (disobedience). In reality, lawsuit divorce is filed based on legitimate reasons, such as a husband's failure to fulfil his obligations, and therefore cannot be categorized as *nusyuz*. This study aims to: (1) examine *nafaqah al-mut'ah* and *nafaqah al-'iddah* in relation to legal norms in Indonesia for wives after lawsuit divorce, and (2) to find the view perspective of *fiqh munakahat* on *nafaqah al-mut'ah* and *nafaqah al-'iddah* for wives after lawsuit divorce. Using a normative approach through literature review, this study finds that the Compilation of Islamic Law (*KHI*) only accommodates the rights of wives after *talaq* divorce, while lawsuit divorce faces a legal vacuum that creates uncertainty regarding the right to *nafaqah al-mut'ah* and *nafaqah al-'iddah*. The findings indicate that lawsuit divorce is not classified as *nusyuz* since it is filed based on valid reasons, such as the husband's failure to fulfil his obligations. *Nafaqah al-'iddah* and *nafaqah al-mut'ah* are rights granted to a wife following divorce, including in lawsuit divorce. A wife who files for lawsuit divorce should still be entitled to these forms of *nafaqah* based on the following reasons: (1) *Nafaqah al-'iddah* is a husband's obligation during the *'iddah* period according to Islamic law, (2) *Nafaqah al-mut'ah* is a mandatory provision as a form of honor and consolation for the wife after divorce, and (3) From the perspective of *fiqh*, lawsuit divorce is generally filed based on *shar'i* reasons, meaning it does not eliminate the wife's right to receive *nafaqah al-'iddah* and *nafaqah al-mut'ah*. This study highlights a legal vacuum within the *KHI* that necessitates reform (amendment) regarding the rights of wives after lawsuit divorce, as well as the need for explicit recognition that lawsuit divorce does not constitute *nusyuz*. In terms of approach, the *KHI* remains similar to previous scholarly perspectives, yet it has not fully incorporated the contextual realities of Indonesian Muslim society into its legal formulations. This study recommends revising the concept of *nusyuz* in the *KHI* to also include instances where the husband neglects his obligations. By doing so, the Islamic family law system in Indonesia can provide more balanced and equitable legal protection.

Keywords: Lawsuit Divorce, *Nafaqah al-Mut'ah*, *Nafaqah al-'iddah*, *Fiqh Munakahat*