



The Authority of Ex Officio Judges in Protecting Women's and Children's Rights Post-Divorce at the Manado Religious Court

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ABSTRACT

This study examines how judges' ex officio authority is applied to secure the rights of ex-wives and children following a divorce at the Manado Religious Court and the challenges judges face in exercising this authority. It focuses on fulfilling iddah alimony, mut'ah, and child support by the ex-husband and applying ex officio authority in divorce cases. Using an empirical legal approach, the research collects data through in-depth interviews, observations, and documentation. Primary data was gathered from interviews with Manado Religious Court judges and relevant parties, while secondary data was sourced from legal literature and regulations. The findings show that, although legal provisions exist to protect the rights of ex-wives and children, their implementation is hindered by social and economic factors, as well as difficulties in enforcing court decisions. Furthermore, ex officio authority is not always consistently applied, with some judges rarely using it or relying solely on trial evidence. Key challenges include claims of financial incapacity by the ex-husband and lengthy, costly execution processes, undermining the effectiveness of fulfilling these rights. The study also reveals the lack of clarity regarding criminal sanctions for ex-husbands neglecting their alimony obligations.

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1. INTRODUCTION

This study deals with the rights of ex-wives and children after divorce in Indonesia, which are regulated by law, especially in Article 80 of the Compilation of Islamic Law (KHI) (Andar Yuni, 2021; Cahyani, 2020; Simanjuntak, 2016). Articles 84 and 85 of the KHI specifically regulate the obligation of the ex-husband to provide maintenance, housing, clothing, *mut'ah* (dowry) maintenance, payment of dowry, and part of the joint property to the ex-wife during the *iddah* (waiting period) or according to the court decision (Erwinsyahbana et al., 2022; Jalil et al., 2022). The rights of children, which involve the cost of *hadhanah* (child custody), breastfeeding, and maintenance from the father, are also regulated by KHI (Ahmatnizar et al., 2022; Bilalu et al., 2022; Sholeh et al., 2019). Although the law has provided a basis, the impact of the end of a marriage is still a serious issue, especially regarding the rights of the ex-wife and children (H. Hamzah et al., 2022; Pani et al., 2023; Suadi, 2022). Factors such as uncertainty about the ex-husband who does not carry out the divorce vow (Hammad, 2014; Nurlaelawati, 2018), decisions that are difficult to implement (Ihwanudin, 2019; Susylawati et al., 2014), and low legal awareness in society can cause women's and children's rights to be ignored after divorce (Sholeh et al., 2019).

To safeguard women's and children's rights in divorce cases, the Supreme Court of the Republic of Indonesia (MARI) released Circular KMA/032/SK/IV/2006. Despite this, the ex officio authority granted to judges, which allows them to enforce ex-wives' rights, is seldom utilized in practice by judges in Religious Courts. (A. Hamzah, 1986; Ibrahim AR & Nasrullah, 2017; Simorangkir et al., 2000).

Several previous studies that discuss legal protection for women after divorce in Indonesia are relevant to this research topic. Although the law has regulated women's rights after divorce, women's legal awareness to demand these rights is still minimal. Ex officio judges are identified as a concrete tool to protect women from economic violence after divorce. Other studies, such as those by Irmawati (2019) and Amal & Zulaicha (2023), discuss ex officio judges' limitations on the wives' rights in divorce and providing *iddah* maintenance to *musyuz* wives (disobedience). The findings show a discrepancy between the judge's decision and the Compilation of Islamic Law.

Furthermore, research by Setiawan (2022) and Ihzafitri et al. (2022) explored the use of ex officio rights of judges in determining husbands' obligations towards their wives in divorce. Finally, Jamil & Nur (2022) research highlights the exclusive authority of ex officio judges in protecting the rights of justice seekers and the application of this exclusiveness in default decisions in divorce cases outside the *petitum*. Overall, these studies show the complexity and challenges in implementing legal protection for women after divorce, especially regarding legal awareness, legal limitations, and the role of ex officio judges.

Based on search above, the differences in this research are: *First*, this research analyzes explicitly judges who do not use ex officio rights to fulfill the rights of *iddah* maintenance, *mut'ah* of ex-wives and child support as a result of divorce (Suleman, 2021), even though in the fiqh, the right to *iddah* maintenance is regulated in Surah Al-Baqarah 2:241 and Surah At-Talaq 65:6, which requires husbands to provide support to their wives during the *iddah* period. The right to *mut'ah* is regulated in Surah At-Talaq 65:6, and Muslims narrate a hadith. This explains the husband's obligation to provide *mut'ah* as a reward to his wife after divorce. Apart from that, child support is regulated in Surah Al-Baqarah 2:233 and Surah At-Talaq 65:7, which oblige fathers to provide support for their

children (Al-Zuhaili, 2006); *Second*, this study uses a legal approach where the judge is the actor in providing considerations in court based on applicable laws and regulations, especially laws and regulations related to the fulfillment of rights due to divorce.

This study focuses on the Manado Religious Court, where empirical findings show no judges' decisions use ex officio rights. The Manado Class IA Religious Court in October-November 2023 did not have a single decision that used ex officio rights related to fulfilling the rights of *iddah* and *mut'ab* support for ex-wives. The suboptimal use of the judge's ex officio rights can lead to suboptimal fulfillment of the rights of ex-wives and children. This creates a risk that the interests of ex-wives are not adequately accommodated, and the judge's decision does not fulfill the sense of justice of ex-wives who seek justice in the Religious Court. This study is essential to uncover problems related to judges' decisions that do not use ex officio rights in fulfilling the rights of *iddah*, *mut'ab*, and child support after divorce.

2. METHODS

This research is a qualitative field research using an empirical legal approach. The empirical legal approach is a form of legal research focusing on enforcing or implementing legal rules in practical societal situations (Muhammad, 2004). This study seeks to explore two key aspects: First, the factors influencing judges' decisions in applying ex officio rights in Religious Courts and their efforts to ensure the fulfillment of wives' and children's rights post-divorce through these rights; and second, the challenges judges encounter when enforcing ex officio rights.

Within the framework of the study, the data collected are arranged into three main classifications: primary, secondary, and tertiary. Primary data were obtained through in-depth interviews with judges at the Manado Religious Court, and respondents were carefully selected to receive information relevant to the focus of this study (Creswell, 2014). Meanwhile, secondary data are sourced from various references such as books, research results, journal articles, magazines, websites, and relevant legal regulations. In addition, tertiary data are obtained from dictionaries, encyclopedias, and other sources that can contribute additional information to support the framework of this study (Miles et al., 2014).

This study applies a comprehensive data collection technique, involving interviews, observation, and documentation methods. Interviews are used to obtain in-depth views from relevant sources and respondents, while observations help direct observation of the situation at the Manado Religious Court (Bowen, 2009). Data are also obtained through legal regulations, court decisions, and other related documents. The data is processed through the editing stages, classifying, and verification. Editing involves arranging data to be structured and complete. Classifying is used to group data into specific categories or themes, while verification is carried out to ensure the accuracy and precision of the collected data (Dobinson & Johns, 2017).

3. RESULTS AND DISCUSSION

The Rule of Judges' Ex Officio Authority in Protecting the Rights of Wives After Divorce

The relevant concept or theory in the analysis of the findings of this study is to use several ideas or theories that have been regulated in laws and regulations as restrictions or guarantees for the use of the judge's ex officio rights to be implemented fairly and beneficially (Rohman et al., 2020; Tijow, 2024). The concept or theory of the judge's ex officio rights can be implemented if the ex-

wife does not agree to not being given her rights by her ex-husband due to divorce (Azizah et al., 2023; Suriani et al., 2024).

As for the situation where the ex-wife disagrees with not being given the right to maintenance from her ex-husband, the judge's officio rights must be exercised to provide legal protection for fulfilling the ex-wife's rights (Hayati & Ali, 2022). On the other hand, if the ex-wife agrees not to be given the right to maintenance from her ex-husband, the judge's officio rights cannot be exercised by the judge to provide legal protection for the fulfillment of the ex-wife's rights and of course after the ex-wife has made a statement, either in writing which is included in the lawsuit or case application or verbally in front of the panel of judges in the trial (Azizah et al., 2023).

The willingness of the ex-wife not to be given the right to maintenance from her ex-husband is based on Article 80 paragraph (6) of the Compilation of Islamic Law, which regulates and explains that "a wife can release her husband from the obligations towards her as stated in paragraph (4) letters a and b." namely "a. maintenance, *kiswah* (clothing allowances) and residence for the wife; b. household, care, and medical costs for the wife and children (Article 80 paragraph (4) letters a and b KHI). The concept or theory of ex officio rights of judges can be implemented if the ex-wife does not consent to not being given her rights by her ex-husband due to divorce because the judge's sole duty is to assist justice seekers and solely try to overcome all obstacles that hinder the creation of a fair trial for justice seekers (Nugroho et al., 2023).

The judge's duties are based on the provisions and explanation of Article 5 paragraph (2) of Law Number 14 of 1970 in conjunction with Law Number 4 of 2004 concerning Judicial Power, which emphasizes that judges only assist those seeking justice and try to overcome all obstacles and barriers to create a simple, fast and low-cost trial. The provisions of Article 5 paragraph (2) of Law Number 14 of 1970, in conjunction with Law Number 4 of 2004 concerning Judicial Power, are reaffirmed in Article 80 paragraph (6) of the KHI that an ex-wife does not release her ex-husband from the obligation to provide *iddah* maintenance to her. As for the concept or theory, it can be implemented if the fulfillment of the right to alimony, *maskan* (residential), and *kiswah* to the ex-wife fulfills the following conditions:

First, the ex-wife during the *iddah* period has not yet reached the *ba'in sugra* or *nusyuz* divorce, and is not pregnant (Article 149 letter b KHI). The *nusyuz* of the ex-wife not receiving the right to maintenance, *maskan* and *kiswah* from her ex-husband is also regulated and explained in Article 84 paragraph (2) KHI, that "while the wife is in *nusyuz*, the husband's obligations towards his wife are in the form of maintenance, *kiswah* and residence, household costs, care costs and medical costs for the wife and children, except for the children (Article 80 letter b KHI). *Second*, the ex-wife's *nusyuz* is when she is not devoted to her physical and internal husband as permitted by Islamic law (Article 83 paragraph (1) KHI), and must be based on valid evidence (Article 84 paragraph (4) KHI) and in a state of not being pregnant (Article 149 letter b KHI). *Third*, the ex-husband providing maintenance while in *iddah* must be adjusted to his income (Article 80, paragraph (4) KHI). *Fourth*, an ex-wife does not release her ex-husband from his obligation to provide *iddah* maintenance to her (Article 80 paragraph (6) KHI).

Furthermore, the theory of the judge's ex officio rights in fulfilling the *mut'ab* rights for ex-wives shows that judges have an active role in ensuring the fulfillment of these rights with certain

conditions (Sholikhah & J, 2023). The judge's ex officio rights can be interpreted as the judge's efforts to ensure that the *mut'ab* rights for ex-wives are fulfilled, provided that the established requirements are met. These requirements involve the ex-wife's condition, the dowry's provisions after *ad-dukhul* (marital intercourse), and divorce agreement at the husband's will. Determination of *mut'ab* rights can also be done according to the Sunnah, without certain conditions. Finally, the amount of *mut'ab* rights must be adjusted to the propriety and financial ability of the ex-husband.

The Judges' Ex Officio Authority in Protecting the Rights of Women and Children After Divorce at the Manado Religious Court

Following the dissolution of a marriage, the former spouse faces several obligations (Putri et al., 2025). The wife must observe the iddah period before remarrying, assume responsibility for the custody and education of the children, ensure her well-being, and refrain from accepting proposals from other men, as stipulated by applicable laws and regulations (Mursyid et al., 2024; Razali et al., 2020). The husband must finance the child's education and provide *iddah* maintenance, housing, and clothing to the wife (Elbashir, 2024). This study examines the implementation of ex officio rights by judges at the Manado Religious Court to ensure the protection and fulfillment of the rights of wives and children in divorce rulings. The researcher first investigated the judges' understanding of relevant laws and regulations concerning the rights of wives and children in divorce cases. The judges' perspectives on exercising ex officio authority in such cases and their interpretations of the regulations governing these rights were explored. The study also examined the difficulties judges encountered in making rulings that protect the rights of wives and children.

The judges who participated in this study, namely Mukhtar Tayib, Rukijah Madjid, and Dewi Kasim, reported having a comprehensive understanding of the laws and regulations governing the rights of wives and children post-divorce. In contrast, Sudirman indicated familiarity with most of the relevant regulations. While the judges were well-versed in the regulations, they did not have the entire text memorized (Interview, Sudirman, Bailiff, Manado, July 2024).

The current legal framework and regulations effectively support protecting the rights of wives and children following the divorce proceedings. Both Kasim and Muhtar concurred that the existing laws are adequate, with Kasim summarizing, "Enough," and Muhtar echoing a similar sentiment, "Enough." Additionally, Madjid highlighted that the regulations also make provisions for enforcing financial support obligations before the divorce is finalized. However, Tayib pointed out a key shortcoming, stating,

"There is still an absence of criminal provisions when the defendant (husband) fails to comply with the ruling" (Interview, Tayib, Judge, Manado, July 2024).

Based on these insights, the judges at the Manado Religious Court think that the existing legal provisions adequately safeguard the rights of wives and children following a divorce. However, they also recognize that the absence of criminal penalties for husbands or fathers who neglect or refuse to comply with the court's decisions presents a significant challenge in effectively enforcing these rights.

The judges at the Manado Religious Court collectively acknowledge the crucial role of ex officio rights in safeguarding the rights of wives and children in divorce cases. Madjid emphasized that 'ex officio rights are essential because, in divorce cases, wives are often at a disadvantage, requiring

a guarantee for the judge's decision regarding the wife's rights post-divorce.' Kasim similarly emphasized that:

"Ex officio rights play a vital role in alleviating the negative impacts of divorce on both women and children." (Interview, Kasim, Judge, Manado, July 2024).

Tayib further confirmed that:

"Ex officio rights provide a valuable solution for protecting the rights of women and children, particularly when the parties involved do not actively seek those rights." (Interview, Tayib, Judge, Manado, July 2024).

The application of ex officio rights by judges at the Manado Religious Court is seen as: 1) a method for safeguarding the rights of women, who often find themselves at a disadvantage during divorce proceedings, 2) a strategy to alleviate the adverse effects of divorce on both women and children, and 3) a tool to ensure the rights of women and children after divorce, even when these rights are not directly claimed by the parties involved. However, the practical implementation of ex officio rights does not always align with this ideal. Tayib noted that 'not all cases involve using ex officio rights.' Madjid pointed out that 'this depends on the available evidence,' indicating that the rights of wives and children in divorce cases are contingent on the evidence presented in court. Kasim mentioned that he 'has never used this ex officio right.' At the same time, Muhtar observed that he rarely applies it, as many women prefer to sever ties with marriage rather than seek their rights after divorce.

This response is an exception when contrasted with the judges' previous views on the significance of ex officio rights in protecting the rights of wives and children during divorce proceedings. The judges at the Manado Religious Court collectively recognize the significance of ex officio rights in protecting these rights. Madjid pointed out that

"This is essential because wives are often at a disadvantage in divorce cases, and a guarantee is needed through the judge's decision regarding her rights after the divorce." (Interview, Madjid, Judge, Manado, July 2024).

Kasim agreed, emphasizing the importance of ex officio rights in:

"Reducing the negative effects of divorce on both women and children." (Interview, Kasim, Judge, Manado, July 2024).

Tayib added that:

"This right provides an effective solution for ensuring the rights of women and children, particularly when these rights are not pursued by the involved parties." (Interview, Tayib, Judge, Manado, July 2024).

The use of ex officio rights by judges at the Manado Religious Court is viewed as: 1) a mechanism to protect the rights of women, who are often disadvantaged in divorce cases, 2) a strategy to alleviate the negative impacts of divorce on both women and children, and 3) a means of safeguarding the rights of women and children post-divorce when these rights are not pursued by the parties involved. However, the practical application of ex officio rights does not always

align with these expectations. Sudirman pointed out that "not all cases involve the use of ex officio rights," while Madjid explained that "its application depends on the evidence available." This indicates that enforcing wives' and children's rights in divorce cases is not guaranteed and relies heavily on the evidence presented. In contrast, Muhtar stated that he seldom applies ex officio rights, as many women prefer to move on with their divorce rather than claim their post-divorce rights (Interview, July 2024). This response reveals the gap between the theoretical function of ex officio rights and their implementation in protecting the rights of wives and children in divorce cases.

The previous response indicated that judges' ex officio rights are not always utilized to fulfill the rights of wives and children. Similarly, various laws and regulations do not consistently guarantee the realization of these rights. When asked whether all the rights of wives and children were thoroughly addressed in their rulings, the judges of the Manado Religious Court provided similar responses. Tayib stated, 'Not all.' Kasim agreed, saying, 'Not all.' Madjid noted that 'the fulfillment of rights depends on the husband's presence, his ability, and the wife's demands.' Tayib further explained that not all rights are fulfilled because some wives choose to forgo their rights to avoid legal disputes (Interview, July 2024). Based on these responses, it can be concluded that three factors influence the fulfillment of the rights of wives and children: 1) the presence of the concerned parties, 2) the husband's financial capacity, and 3) the wife's demands.

All three judges agreed that the wife's claim plays a crucial role in ensuring the rights of both the wife and children in divorce cases. When questioned whether fulfilling these rights depends on the wife's request, Sudirman confirmed, "Yes, it is based on her request." Kasim provided a similar response, stating, "Yes." Tayib elaborated,

"Yes, particularly when both parties agree to mediation, with the mediator emphasizing the prioritization of the wife's and children's rights." (Interview, Tayib, Judge, Manado, July 2024).

Madjid, offering a slightly different viewpoint, remarked,

"Judges can use their authority to determine the maintenance for the wife as the divorced party" (Interview, Madjid, Judge, Manado, July 2024).

Based on these responses, it can be inferred that fulfilling the wife's and children's rights in divorce judgments largely depends on the wife's request. However, in some instances, judges may exercise their ex officio rights.

The ex officio powers granted to judges are crucial in protecting the rights of wives and children. In cases where the parties are absent or the wife does not proactively seek these rights, judges have the authority to intervene and guarantee that these rights are upheld. This is stipulated in Article 41, letter c, of the Marriage Law: "The consequences of a marriage dissolution through divorce include: (c) The court may require the ex-husband to provide maintenance and/or impose obligations on the ex-wife." Additionally, the rights that judges can enforce are detailed in the Compilation of Islamic Law (KHI), specifically in Article 149, letter (b), which specifies: "If the marriage ends in divorce, the ex-husband is obligated to provide an appropriate *mut'ah* to the ex-wife, either in the form of money or property, unless the ex-wife is of *qobla ad-dukbul* (before marital intercourse).

Legal Obstacles and Systemic Challenges in Enforcing Post-Divorce Rights at the Manado Religious Court

Fulfilling women's and children's rights after divorce, both in divorce by *talaq* (husband-initiated divorce) and divorce by lawsuit (wife-initiated divorce), is an essential aspect of substantive justice that must be guaranteed in the Indonesian religious court system (Sholeh et al., 2019). In divorce by *talaq*, which is usually filed by the husband, the right to *iddah*, *mut'ah*, and child support becomes the husband's obligation, where the husband must provide support during the *iddah* period and provide *mut'ah* as compensation for the divorce (Hasanudin et al., 2023). Meanwhile, in a divorce by lawsuit, which is usually filed by the wife, the right to child support remains the husband's responsibility. Still, the right to *iddah* and *mut'ah* support is often neglected or questioned, depending on the judge's decision (Hayati & Ali, 2022). However, in both types of divorce, the husband must still fulfill the child's rights, and this obligation is a priority that must be fulfilled, even though there are various challenges in its implementation.

One of the critical roles that judges have in resolving divorce disputes is ex officio authority, which allows judges to decide on the maintenance of the wife and children without having to wait for a claim from the wife, Article 41 of Law Number 1 of 1974 concerning Marriage (Andar Yuni, 2021). However, in its implementation, judges at the Manado Religious Court face various obstacles in ensuring that these rights are fulfilled effectively.

The obligation to fulfill the rights of wives and children has been regulated in various regulations, including Article 41 of Law No. 1 of 1974 on Marriage, which states that the ex-husband remains obliged to provide maintenance to his ex-wife and children after divorce. In addition, Article 149 of the Compilation of Islamic Law (KHI) emphasizes the rights of ex-wives to *mut'ah*, *iddah* maintenance, and *hadhanah* rights for children who have not reached adulthood. Circular Letter of MA RI Number 1669/DJA/HK.00/5/2021 also instructs judges to fulfill women's and children's rights after divorce through more proactive and binding decisions. However, the implementation of this regulation still faces various challenges.

Interviews with judges from the Manado Religious Court, including Mukhtar Tayib, Rukijah Madjid, and Dewi Kasim, reveal that the primary challenge in ensuring the fulfillment of the rights of wives and children in divorce cases is the economic situation of the ex-husband. Kasim noted,

"Many ex-husbands cite financial incapacity as a reason for not providing child and spousal support, despite having a stable income." (Interview, Kasim, Judge, Manado, July 2024).

Similarly, Tayib observed,

"Many ex-husbands persist in neglecting their obligations, citing other financial commitments, such as new marriages" (Interview, Judge, Manado, July 2024).

This highlights that, despite legal provisions outlining the husband's obligations, there are still significant barriers to their enforcement.

Based on interviews with judges at the Manado Religious Court, it is clear that although there are regulations governing the obligation to provide support to be fulfilled by the ex-husband after a divorce, many obstacles arise in its implementation. One of the main obstacles is the claim of

financial inability from the ex-husband, which is often used as an excuse to avoid the obligation, even though they still have a steady income. This claim reflects the discrepancy between the financial recognition conveyed and the existing reality, which can add to the difficulties for wives and children in obtaining their rights according to legal provisions.

In addition, other factors that hinder the fulfillment of the rights of wives and children after divorce are additional reasons such as the existence of other economic responsibilities, for example a new marriage which is considered a legitimate reason to avoid the obligation to provide support (Nurdin, 2023; Sholeh et al., 2019). This shows that economic factors, especially those related to the personal life of the ex-husband, also influence their decision to fulfill the obligation to provide support. Although there are clear regulations regarding the husband's obligations, the law's implementation is often hampered, for legitimate reasons, by the party obliged to provide support. This indicates inadequate supervision and law enforcement in ensuring these obligations are carried out properly in the field.

In Islamic jurisprudence, the obligation of maintenance given by the husband after divorce, such as maintenance for *iddah*, *mut'ah*, and child maintenance, must be adjusted to the husband's economic ability and local customs (Ula, 2021). The maintenance must cover the basic needs of the wife and children, by the principle of *al-ma'ruf* (which is reasonable and acceptable) which is reflected in the Qur'an Surah Al-Baqarah 2:233 and At-Talaq 65:7, which regulates the obligation of maintenance according to the ability of each party, as well as in the Hadith from Abu Hurairah ra. which teaches that maintenance should be given reasonably and fairly to the wife and children (Al-Zuhaili, 2006). However, in practice, the fulfillment of maintenance obligations is often hampered by the husband's economic reasons, such as a new marriage or other dependents. This shows that there is flexibility in adjusting the standard of maintenance. However, one must still consider justice for the wife and children, and avoid neglecting the obligations that have been set in Islamic law.

In addition to economic constraints, another obstacle judges face is the difficulty in executing court decisions. Madjid said,

"The execution process is often hampered by lengthy procedures and high costs, as well as the lack of assets that can be seized from the ex-husband" (Interview, Madjid, Judge, Manado, July 2024).

The lack of legally recorded assets makes the execution process even more difficult. This factor is exacerbated by the lack of supervision of the implementation of court decisions related to fulfilling the rights of wives and children after divorce.

The obstacles in executing this court decision show that although the regulation has stipulated the obligation of the ex-husband to provide maintenance to his wife and children after divorce, the obstacles in the field hamper its implementation. One of the main obstacles is the lengthy execution procedure and high costs, which often become a barrier for the party entitled to receive maintenance to start the process (Azani & Cysillia, 2022). High execution costs can make many parties, especially separated wives, feel that legal efforts are not commensurate with the benefits they will receive. In addition, the lack of assets that can be seized from ex-husbands makes the execution process even more difficult because the law requires clear evidence of assets that can be used to fulfill maintenance obligations (Fadil et al., 2024; Fatimah & Rifqi, 2014).

In addition to administrative and financial issues, weak supervision of the implementation of court decisions worsens the situation. Without adequate supervision, court decisions that have been issued can be ignored without significant consequences (Sholeh et al., 2019). This shows a gap in the legal system that allows ex-husbands to fail to fulfill their obligations without experiencing strict sanctions. This condition places the wife and children in a vulnerable position, where even though they have rights recognized by the court, these rights are difficult to fulfill in practice due to the lack of effective monitoring mechanisms and structural obstacles in the execution process.

Social and cultural elements also present difficulties in guaranteeing the protection of the rights of women and children. Kasim highlighted,

"Many women do not understand their legal rights and do not know how to claim the right to maintenance after divorce." (Interview, Kasim, Judge, Manado, July 2024).

The lack of access to legal aid for women from low-income backgrounds further worsens the situation. In addition, although judges have ex officio authority to determine child and wife maintenance, many are reluctant to use it. As conveyed by Tayib,

"We often experience regulatory limitations and minimal coordination with related agencies, such as social services or district courts, in implementing this ex officio right." (Interview, Tayib, Judge, Manado, July 2024).

As a result, many ex-husbands have managed to avoid their obligations in various ways, including falsifying financial information or removing their assets from legal records.

Social and cultural obstacles to the enforcement of women's and children's rights suggest that, although regulations exist to protect these rights, the issue is worsened by a lack of awareness and limited access to legal support. Many women, especially those from low-income backgrounds, do not know their rights after divorce and how to claim them (Qomaro, 2021). This lack of understanding causes them to surrender and not fight for their rights before the law. This creates inequality in the fulfillment of rights, where only some women can access legal knowledge or support, while others remain left behind. The inability to understand the legal process and not having access to adequate legal resources are significant obstacles to realizing justice for women.

In addition, although judges have ex officio authority to determine maintenance for wives and children, implementing this authority is often hampered by various factors, including minimal coordination between related agencies and limited existing regulations (Syarifuddin & Turatmiyah, 2012). This makes the situation worse because many ex-husbands manage to avoid their obligations by falsifying information or eliminating assets that should have been confiscated. The absence of intense supervision in the implementation of court decisions also provides room for ex-husbands not to fulfill their obligations. This situation reflects the gap between existing legal provisions and the reality on the ground, which requires improvements in the aspects of supervision and law enforcement so that the rights of women and children can be truly protected.

A significant flaw in the existing legal framework is the lack of stringent criminal penalties for ex-husbands who fail to meet their obligations in providing child and spousal support after divorce. Tayib stated,

"The existing regulations are not yet firm enough to impose sanctions on ex-husbands who do not fulfill their obligations" (Interview, Tayib, Judge, Manado, July 2024).

Although Article 78 of Law No. 35 of 2014 on Child Protection states that parents who neglect to provide maintenance can be subject to sanctions, the implementation of this provision is still weak and rarely applied in the context of divorce. This indicates the need for policy reform to implement existing regulations more effectively.

The absence of strict criminal sanctions in the legal system shows that although there are regulations that should protect the rights of wives and children after divorce, the implementation of these laws is not optimal. Article 78 of Law No. 35 of 2014 on Child Protection states that parents who are negligent in providing maintenance can be subject to sanctions, but this provision is rarely implemented. This is due to weak supervision and law enforcement that allows ex-husbands to ignore their obligations without fear of serious legal consequences (Salma et al., 2017). Therefore, strengthening regulations and their implementation is critical so that women and children can obtain equal and adequate legal protection and prevent injustice due to ex-husbands' negligence in fulfilling their maintenance obligations.

In addition, the ambiguity in the imposition of criminal sanctions on ex-husbands who neglect their obligations also has an impact on the justice and welfare of wives and children after divorce. Without clear and firm sanctions, ex-husbands who neglect to pay maintenance can avoid their obligations in unfair ways, such as falsifying information or hiding assets (Musawwamah, 2013). This adds to the difficulties for the wife and children in obtaining the maintenance they should receive based on the court's decision. Therefore, there needs to be a reform that includes strengthening the rules and stricter law enforcement, which can provide a deterrent effect for ex-husbands who do not comply with their obligations and provide a sense of security and justice for the wife and children.

4. CONCLUSION

The judges at the Manado Religious Court recognize the significance of ex-officio rights post-divorce. Despite the regulations addressing the provision of these rights in various laws, their practical implementation continues to encounter substantial challenges. One of the main obstacles found is the lack of clarity and firmness in the application of criminal sanctions for ex-husbands who ignore their obligations to provide maintenance after divorce. Although there are regulations governing the obligations of ex-husbands to offer maintenance, many ex-husbands can avoid this obligation without adequate consequences. This is due to weak supervision, limitations in the execution of decisions, and the absence of sufficient mechanisms to ensure the effective implementation of this obligation. The lack of clarity in the provision of criminal sanctions also worsens the situation, where many disadvantaged parties, especially women and children, do not get their rights under the provisions of the law.

Furthermore, although the ex officio rights granted to judges are vital for protecting the rights of wives and children when the parties do not explicitly request them, applying this right is not always consistent. Ex officio rights are indeed recognized as a means to ensure that the rights of women and children are fulfilled even though there is no explicit request from the entitled party. However, implementing this right still depends on the evidence in court and is not always used by judges in every divorce case. This shows a gap between the theoretical potential and the reality in the field, where some judges are reluctant or rarely use this authority. Therefore, policy reforms

that include strengthening regulations, stricter law enforcement, and increasing supervision of the execution of court decisions are needed to fulfill the rights of women and children fairly and appropriately. The success of implementing this law depends greatly on better coordination between various related institutions and increasing legal awareness among the community, especially for women who are the most disadvantaged parties in divorce.

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