



DIVORCE DUE TO WIFE NUSYUZ (ANALYSIS OF DECISION NUMBER 286/PDT.G/2022/PA.BRB)

Muhammad Muhyiddin

Fakultas Syariah UIN Antasari Banjarmasin, Indonesia

E-mail: muhammadmuhyiddino774@gmail.com

Received 08-05-2023 | Received in revised form 20-09-2023 | Accepted 02-11-2023

Abstract

This research is motivated by the decision of the Judge at the Barabai Religious Court class I B, where one of the rulings of the decision punishes the Petitioner to pay mut'ah to the Respondent in the amount of Rp. 3,200,000.00 (three million two hundred thousand rupiah) and the Respondent is categorized by the Judge who decides the case into the category of nusyuz. The Respondent was categorized into the category of nusyuz by the Judge because she did not want to serve the inner needs of the Petitioner on the grounds that she was sleepy and tired. The purpose of this research is to find out the basis of the judge's consideration in deciding the amount of mut'ah value and to find out what legal problems arise in decision number 286/Pdt.G/2022/Pa.Brb. This research uses normative legal research methods and uses a statute approach and case approach. As for analyzing this research, the author uses a qualitative method. By first collecting the necessary legal materials from document studies, then grouped according to the problem and the legal materials are interpreted and analyzed in order to obtain clarity or solution of a problem sought. The results of this study the author found: First, the judge in deciding, especially punishing the Petitioner in paying mut'ah to the Respondent, uses the method of jurimetry and the principle of appropriateness, which conceptually the use of the jurimetry formula is not appropriate, it is necessary to look again at how the wife's devotion and the length of time the husband and wife live in a joint residence. Second, other legal problems that arise in the decision, namely related to the nusyuz of a wife, because refusing an invitation to bed is not necessarily punished as nusyuz. Then, in the application of the Principle of Decency itself, it should pay more attention to the devotion or behavior of each party to the other.

Keywords: Divorce, Nusyuz, Court Decision.

Abstrak

Penelitian ini dilatarbelakangi oleh putusan Hakim Pengadilan Agama Barabai kelas I B, dimana salah satu amar putusannya menghukum Pemohon untuk membayar mut'ah kepada Termohon sebesar Rp. 3.200.000,00 (tiga juta dua ratus ribu rupiah) dan Termohon dikategorikan oleh Hakim yang memutus perkara tersebut ke dalam kategori nusyuz. Termohon dikategorikan ke dalam kategori nusyuz oleh Hakim karena tidak mau melayani kebutuhan batin Pemohon dengan alasan mengantuk dan capek. Tujuan dari penelitian ini adalah untuk mengetahui dasar pertimbangan hakim dalam memutuskan besaran nilai mut'ah dan untuk mengetahui problematika hukum apa

saja yang muncul dalam putusan nomor 286/Pdt.G/2022/Pa.Br. Penelitian ini menggunakan metode penelitian hukum normatif dan menggunakan pendekatan perundang-undangan (statute approach) dan pendekatan kasus (case approach). Adapun dalam menganalisis penelitian ini, penulis menggunakan metode kualitatif. Dengan terlebih dahulu mengumpulkan bahan-bahan hukum yang diperlukan dari studi dokumen, kemudian dikelompokkan sesuai dengan permasalahan dan bahan-bahan hukum tersebut diinterpretasikan dan dianalisis guna memperoleh kejelasan atau pemecahan dari suatu permasalahan yang dicari Hasil penelitian ini penulis menemukan: Pertama, hakim dalam memutus khususnya menghukum Pemohon dalam membayar mut'ah kepada Termohon menggunakan metode yurimetri dan asas kepatutan, yang mana secara konseptual penggunaan rumus yurimetri tersebut kurang tepat, perlu dilihat lagi bagaimana pengabdian istri dan lamanya suami istri tinggal dalam satu tempat tinggal bersama. Kedua, permasalahan hukum lain yang muncul dalam putusan tersebut, yaitu terkait dengan nusyuznya seorang istri, karena menolak ajakan tidur tidak serta merta dihukumi nusyuz. Kemudian, dalam penerapan Asas Kepatutan itu sendiri, seharusnya lebih memperhatikan pengabdian atau perilaku masing-masing pihak terhadap pihak lainnya.

Kata Kunci: Perceraian, Nusyuz, Putusan Pengadilan.

1. INTRODUCTION

In Indonesia divorce is divided into two, namely divorce (by the will of the husband) and divorce (by the will of the wife). In the procedure, divorce applies to those who are Muslims, this is stated in Article 14 of PP No. 9 of 1975 concerning the implementation of Law No. 1 of 1974 concerning marriage, which states that:

"A husband who has entered into marriage according to Islam, who will divorce his wife, submits a letter to the Court at his place of residence, containing a notification that he intends to divorce his wife accompanied by the reasons and requests the Court to hold a hearing for that purpose."

This is also based on Article 39 paragraph 1 of Law No. 1 of 1974 concerning marriage, which states that:

"Divorce can only be carried out in front of a Court session after the Court concerned has tried and failed to reconcile the two parties."

In the research case conducted by the author is about divorce that occurred in the Barabai Class I B Religious Court, Hulu Sungai Tengah Regency, South Kalimantan, namely case number 286/Pdt.G/2022/PA.Br. The case was resolved by a single Judge, where the Judge granted the Petitioner's request, namely giving the Petitioner to divorce one raj'i against the Respondent in front of the Barabai Class I B Religious Court session, and forcing the Petitioner to pay mut'ah to the Respondent Rp. 3,200. 000 (three million two hundred thousand rupiah) paid before pronouncing the divorce in front of the Class I B Religious Court. The interesting thing according to the author, the judge obliged the Petitioner to pay mut'ah to the Respondent in excess of the Petitioner's monthly income, while the judge placed the Respondent's position as someone who was nusyuz.

Mut'ah is a gift from a former husband to a divorced wife in the form of goods, money and others. Giving mut'ah can be obligatory or can be sunnah. Mut'ah becomes obligatory for the former husband when the former wife has not decided on the mahr for

the wife ba'da dukhul and the divorce is the husband's own will. Mut'ah becomes sunnah when the ex-husband gives it without these conditions. meaning that mut'ah is just a selfless gift. According to article 160 KHI, the amount of mut'ah is adjusted to the propriety and ability of the husband. In the termination of marriage will cause violence in the soul of women and make the separation a painful moment. Thus, the husband should be able to give mut'ah to please the former wife according to the ability of the former husband, because this act has psychological value in addition to its existence as a form of appreciation to the former wife.

In the research case that the author examined, the ex-wife was dropped by the judge into the category of nusyuz, because the ex-wife or Respondent refused to have intercourse with her husband (the inner needs of the husband or Petitioner) on the grounds of being sleepy and tired. In the book of Fath Al-Mu'in, which includes acts of nusyuz, if the wife does not want to fulfill the invitation of her husband, even though she is busy doing something. According to the book written by Prof. Dr. Wahbah Az-Zuhaili entitled Fiqih Islam wa Adillatuhu, one of the wife's obligations is to obey her husband if invited to bed, which states that:

وَجُوبُ طَاعَةِ الزَّوْجَةِ لِزَوْجِهَا إِذَا دَعَاَهَا إِلَى الْفِرَاشِ

"It is the wife's duty to obey her husband if invited to bed."

However, looking at the Respondent's reasons for refusing to have conjugal relations or services with the Petitioner, namely tiredness and sleepiness. We can see this from what the Respondent did or did during his marital relationship with the Petitioner, where the Respondent in addition to doing what the Respondent should have done also had to take care of the Respondent's young children, namely the first child aged 4 years and the second child aged 1 year. This, according to the author, should be given more attention in determining whether a person is really unfaithful or not to their spouse, must see what is the cause of the rejection or the cause of the emergence of a reason.

If we look again at decision number 286/Pdt.G/2022/PA.Br. The judge gave the Petitioner one raj'i divorce against the Respondent. A woman who is undergoing iddah and divorced with a divorce of divorce one raj'i, if she is good to her husband or devoted to him, is entitled to housing, clothing and spending money from her former husband, because to qualify someone to get what he is entitled to, must weigh what he has done or his obligations as a wife. If we look at SEMA Number 3 of 2018 in section three of the Religious Affairs chamber in the outgoing law section, it states that the wife in a case of gugat divorce can be given mut'ah and iddah maintenance as long as there is no evidence of nusyuz. According to the author, when viewed from the SEMA, it is indeed a different context related to what the author discusses, namely divorce, but according to the author, the SEMA has the same meaning regarding women who are nusyuz. However, according to the majority of scholars, there is no specific condition that must be present in the wife so that the husband is burdened with paying mut'ah. Differences may arise when the divorced wife is in a state of qabla dukhul (has never been married).

In decision number 286/Pdt.G/2022/PA.Br. the judge charged the Petitioner to give mut'ah to the Respondent, with the principle of decency and feasibility. We need to know that a principle is a broadly formulated thought that is the basis for legal rules / rules. So

the principle is abstract, while the rules / legal rules are concrete regarding certain legal behaviors or actions. Appropriateness according to KBBI is suitability: everything we do should be in accordance with the boundaries that apply in society. Meanwhile, appropriateness is a matter that is appropriate. So it can be understood that the principle of appropriateness and feasibility used by the judge in determining the value of mut'ah is the appropriateness and suitability of the mut'ah value with what the parties did during their marriage.

According to M. Natsir Asnawi in his journal, the theory of propriety is a renewal of the objective legal theory. This theory basically departs from the principle of bilijikheid which is commonly known in the field of agreement law. This principle is then applied in the burden of proof in court to give birth to the theory of propriety in the burden of proof.

Therefore, the focus of the research conducted by the author is how the basis for the judge's consideration in determining the amount of mut'ah value and what legal problems arise in the divorce verdict due to the wife's nusyuz in decision number 286/Pdt.G/2022/PA.Brb.

From the description above, the author is finally interested in conducting research related to the legal considerations used by the judge in determining the amount of mut'ah value and what legal issues arise in case number 286/Pdt.G/2022/PA.Brb. Finally, the author took the title "Divorce due to Wife Nusyuz (Analysis of Decision Number 286/Pdt.G/2022/PA.Brb)."

2. LITERATURE REVIEW

a. Divorce

In the Big Indonesian Dictionary, divorce means separation or division, while in language or in Islamic law divorce is the same as talak (ithlaq), which means to release or leave. Divorce is part of the marriage itself, because there is no such thing as divorce if there is no marital bond that occurs. Every marriage that occurs between a man and a woman as a couple is the first step in a life together between the two parties, and the parties certainly want the marriage to be intact throughout their lives. However, not a few marriages that are hard to maintain end in divorce.

In Indonesia, divorce can only be carried out in front of a court session on the basis that the parties cannot live in harmony anymore as befits married life and the procedure for divorce is regulated in separate laws and regulations, this is based on Law no. 1 of 1974 concerning marriage article 39, namely.

- 1) Divorce can only be carried out in front of a court session after the court has tried and failed to reconcile the two parties.
- 2) To obtain a divorce, there must be a strong reason that the husband and wife will not be able to live together again.
- 3) The procedure for divorce before the Court has been regulated in separate laws and regulations.

Then, the Compilation of Islamic Law regulates if a marriage is terminated by the will of the husband or the husband divorces his wife, then in accordance with Article 149 of the Compilation of Islamic Law, the former husband is obliged to:

- 1) Provide a decent mut'ah to his former wife, either in the form of money or objects, unless the former wife is qabla al dukhul.
- 2) Providing maintenance and *kiswah* to the former wife during the *iddah*, unless the former wife has been divorced *ba'in* or *nusyuz* and is not pregnant.
- 3) Repay the *mahr* that is still owed in full and half if *qabla al dukhul*.
- 4) Providing *hadhonah* expenses for his children who have not reached the age of 21.

In the case of divorce, the court authorized to resolve the case is the religious court. The religious court is one of the branches of judicial power that has absolute authority to accept, examine, adjudicate, and resolve certain disputes between people of the Islamic faith. Article 49 of Law No. 3 of 2006 concerning amendments to Law No. 7 of 1989 concerning religious courts states that religious courts are tasked with examining and deciding and resolving cases at the first level between people who are Muslim, namely in the fields of marriage, inheritance, wills, grants, *waqf*, *zakat*, *infaq*, *shadaqah*, and *sharia* economy.

When filing a lawsuit or petition, the lawsuit or petition is filed with the court whose jurisdiction covers the area of residence of the defendant or respondent. If it is not known, the lawsuit is filed in the area of the plaintiff or applicant. If the defendant is more than one person, then the lawsuit is filed with the court whose jurisdiction covers the area of one of the residence of the defendant or respondent. If the object of the case is an immovable object, then the lawsuit can be filed with the court whose jurisdiction covers the location of the immovable object. If a written deed specifies a domicile of choice, the lawsuit shall be filed with the court whose domicile is chosen.

During the trial, the parties may be accompanied by their attorneys and most of the parties litigating in court use a special power of attorney, namely an advocate. The granting of special powers to this advocate must meet specific formal requirements, namely, clearly and specifically mentioning the power of attorney to act or appear before the court, mentioning the relative competence of the court, mentioning the identity and position of the parties, and mentioning briefly and concretely the subject and object of the dispute in question.

The stages of proceedings in the religious courts:

- 1) Case registration

Before litigating in a religious court, the plaintiff or applicant first registers the lawsuit or application in the registrar of the religious court in accordance with its relative competence. In principle, civil trials are preceded by the summoning of the parties. Summoning is a notification as well as an order to the parties through an official letter delivered through a bailiff/substitute bailiff about the schedule and place of the trial of the case. The order to summon the parties is made by the Chairman of the Panel of Judges to the bailiff/substitute bailiff.

- 2) Peacemaking

Before examining a civil case against the parties, the judge must make peace efforts as much as possible by explaining the negative consequences if peace cannot be reached. If the peace is successful, a deed of peace will be made and the

parties are bound and must fulfill the agreement they have made, with the existence of a deed of peace, the case is immediately declared in *kracht* (permanent legal force). If the settlement is unsuccessful, the judge closes the hearing and the trial will be continued on the next day to be processed as in an ordinary case.

3) Reading of the lawsuit or petition

The judge must declare the hearing closed to the public when entering the stage of reading the letter of claim or petition, if the case is related to divorce. Before being given the opportunity by the panel of judges to the defendant or respondent to provide a response/answer, the plaintiff or applicant has the right to change, revoke or maintain the contents of the lawsuit or petition. If the plaintiff or applicant states that there is still no change or addition in the lawsuit or petition, then the trial continues to the next stage.

4) Defendant's or respondent's reply

In the defendant's or respondent's answer, there is also the possibility of recognizing the truth of the arguments put forward by the plaintiff or applicant. Recognition or justification of the claim or request is usually not answered explicitly by the defendant or respondent, but also does not admit it definitively, so that in practice it requires proof of the plaintiff's claim.

In the answer of the defendant or respondent, there is also the possibility of a counterclaim from the defendant or respondent to the plaintiff or applicant, which aims to combine two related claims, simplify procedures, avoid conflicting decisions between each other, neutralize counterclaims, simplify the evidentiary process, and save costs.

5) Replic

This stage is a counter-response from the plaintiff or applicant to the answer from the defendant or respondent. If in the first answer the defendant or respondent filed a counterclaim, then in this stage the plaintiff or applicant answers the counterclaim.

6) Duplic

Duplic is the answer or response of the defendant or respondent to the replication submitted by the plaintiff or applicant. If the defendant or respondent has filed a counterclaim, then at this stage the defendant can respond to the counterclaim answer from the original plaintiff (counterclaim defendant), the response can be in the form of confirmation of the counterclaim or other additional arguments to paralyze the counterclaim answer from the original plaintiff.

7) Evidence

At this stage the litigants attempt to convince the judge of the truth of the events or occurrences submitted by the parties to the dispute with evidence that has been determined by law. In religious court procedural law, it is imposed on both parties equally by using evidence such as written evidence (letters), witnesses, testimony, confessions and oaths.

8) Conclusion

At this conclusion stage, the litigants are given the same opportunity by the judge to submit a final opinion which is a conclusion of the results of the examination during the trial according to their respective views.

9) Deliberation of the panel of judges

In the deliberations of the Panel of Judges, all judges convey their considerations or opinions either orally or in writing. If there is a difference of opinion, then the majority opinion or majority vote is taken and the dissenting opinion can be included in the decision (dissenting opinion).

10) Verdict reading

After the verdict is read out, the parties are entitled to file an appeal within 14 days after the verdict is pronounced. If one or more of the parties is not present when the verdict is read out, then the bailiff of the religious court will deliver the content/application of the verdict to the absent party, and the verdict will only become legally binding after 14 days after the verdict is received by the absent party.

b. Nusyuz

In terms of nusyuz, it is insubordination or disobedience or actions of a wife who does not want to carry out her obligations or does not want to obey her husband or vice versa. So far, many people still think that nusyuz only exists in a woman (wife), but in reality it is not the case that nusyuz also applies to men (husbands).

Nusyuz of a wife is when she is unwilling or reluctant to fulfill the obligations that must be carried out or she does not obey her husband. For example, not wanting to make out (unless there is an excuse), leaving the house without the husband's permission (except for emergencies), traveling alone without the husband's permission (unless traveling alone for the sake of the husband), closing the door in front of the husband's face (showing reluctance), putting on a sullen face or speaking harshly (unless that is her disposition and the husband is obliged to educate her), lying by accusing the husband of having divorced her, and so on. The act of nusyuz of the wife results in the loss of the right to maintenance that she should get, even though the nusyuz of a wife is only for a short time.

According to the Maliki madhhab, if the wife refuses her husband's invitation to have sexual intercourse, then the wife's right to maintenance is waived on the day she refuses her husband's invitation. However, Hanafi was of the view that if the wife stays at home and asks her husband's permission when she goes out, then she is still obedient, even if she refuses to have intercourse without a valid Shara' basis. Her refusal is indeed haram, but it does not nullify her right to maintenance. For the Hanafis, the obligation to provide maintenance is when the wife is in her husband's house; the issue of bed or intercourse has nothing to do with the obligation to provide maintenance.

To solve the problem of a wife's nusyuz, it is enough for her husband to solve it by advising her and others, as mentioned in Q.S. an-Nisa/4: 34.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ ۗ
فَالصَّالِحَاتُ قَنَاطٌ حَفِظَتْ لِلْغَيْبِ بِمَا حَفِظَ اللَّهُ ۗ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَأَهْجُرُوهُنَّ فِي
الْمَضَاجِعِ وَاضْرِبُوهُنَّ ۗ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْعُوا عَلَيْهِنَّ سَبِيلًا ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

"The men (husbands) are responsible for the women (wives) because Allah has preferred some of them (men) over others (women) and because they (men) have spent some of their wealth. The virtuous women are those who obey God and take care of themselves in the absence of their husbands, for God has taken care of them. Those women whom you fear may be unfaithful, admonish them, leave them in their

beds, and (if necessary) beat them (in a way that does not hurt). But if they obey you, do not seek ways to distress them. Verily, Allah is Most High, Most Great."

Basically, if a husband invites his wife to bed and she refuses and he is not happy or angry, then she will be cursed by the angels until dawn, based on the following hadith:

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَأَبُو كُرَيْبٍ قَالَا: حَدَّثَنَا أَبُو مُعَاوِيَةَ؛ ح: وَحَدَّثَنِي أَبُو سَعِيدٍ الْأَشْجِيُّ: حَدَّثَنَا وَكَيْعٌ؛ ح: وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ - وَاللَّفْظُ لَهُ - : حَدَّثَنَا جَرِيرٌ، كُتُّهُمْ عَنْ الْأَعْمَشِ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: إِذَا دَعَا الرَّجُلُ امْرَأَتَهُ إِلَى فِرَاشِهِ، فَلَمْ تَأْتِهِ، فَبَاتَ غَضْبَانٌ عَلَيْهَا، لَعْنَتُهَا الْمَلَائِكَةُ حَتَّى تُصْبِحَ

"And narrated to us Abu Bakr ibn Abi Shaibah and Abu Kuraib both of whom said; narrated to us Abu Mu'awiyah. And narrated from another route, has narrated to me Abu Sa'id al-Asyaj has narrated to us Waki'. And it was narrated from another route, has narrated to me Zuhair bin Harb and the wording is from him, has narrated to us Jarir all from al-A'masy from Abu Hazim from Abu Hurairah he said; Rasulullah Shalallahu'alaihi Wasallam said: "If a man invites his wife to have intercourse with him, but she does not fulfill his invitation, and he becomes angry that night, then she will be cursed by the angels until dawn." (H.N. by Muslim)

According to the book entitled Fatawa Qardhawi by Yusuf al-Qardhawi then translated by Abdurrachman Ali Bauzir, namely looking at the hadith above, this situation is if it is done without an excuse and a reasonable reason, such as sickness, tiredness, absence, or things that are feasible.

However, according to Indonesian Muslim Feminist, K.H. Husein Muhammad, the hadith is not only found in one narration, but the hadith cannot be understood only textually or with a straightforward understanding, because this hadith according to K.H. Husein Muhammad is addressed to women who do not have a strong reason to refuse their husband's invitation, but if there is a strong reason or fear of being wronged by their husband then the refusal is valid or justified.

Then, according to Siti Musdah Mula said that what needs to be seen from the hadith is the wife's refusal, from this context it is necessary to know the reasons why the wife refuses her husband's invitation, if for example the wife refuses her husband's invitation without having a logical reason or even does not have a clear reason, of course a wife deserves punishment from the angels and the wife can be considered nusyuz. However, if a wife's refusal is on humanitarian grounds, for example sick, tired, tired or not in the mood, then it can be justified or it is a valid reason.

Whereas a husband's nusyuz is like being reluctant or unwilling to fulfill his wife's rights or obligations as a husband towards his wife. For example, not wanting to give maintenance, qasm rights (turn rights if polygamous), and so on. As a result of the husband's nusyuz, the wife can report to the judge and the judge has the right to force the husband to fulfill his wife's rights.

c. Alimony after divorce

According to KBBI nafkah has the meaning of spending on life; (money) income; provision for daily life; sustenance, so nafkah is in the form of daily needs, both clothing, food and shelter. However, the maintenance referred to here is an expenditure made by someone who is his responsibility. Nafkah is also a consequence or result of the name of the marriage bond. Nafkah is an obligation issued by a person to the person who is his responsibility, for example a husband to his wife, a father to his children or family, which includes the needs of clothing, food and shelter in his daily life.

Regarding the level and size of maintenance, it is actually not regulated how much or what the husband must give to his ex-wife. In the case of divorce (divorce at the will of the husband), the husband is obliged to provide mut'ah as mentioned in article 149 of the Compilation of Islamic Law number 1 above.

In Indonesia, in determining the level of nafkah mut'ah, the jurimetric method is used, namely the science of arithmetic in legal science, which in determining the value of mut'ah uses a certain formula. This jurimetry is a recommendation from the judicial policy in the policy summary on guaranteeing the protection of the rights of women and children after divorce of the directorate general of religious judicial bodies number 1959 of 2021 concerning the implementation of a policy summary on guaranteeing the protection of the rights of women and children after divorce.

According to M. Natsir Asnawi in his book entitled Introduction to Jurimetry and its Application in the Settlement of Civil Cases, if a married couple is blessed with children, then in determining the value of mut'ah it uses the following formula:

$$m=20\% \times n \times l$$

As for couples who are not blessed with children, the mut'ah value is slightly lower. The determination of the mut'ah value is basically the same as the formula above, but the difference is only in the multiplier coefficient, which is 10%. In determining the value of mut'ah, it is based on consideration, namely the differentiation of the 10% and 20% coefficients for couples who are blessed with children and not blessed with children, based on consideration of appreciation for a wife who can provide offspring. This means that with the presence of children or offspring, a wife's dependents or responsibilities as a wife increase in addition to serving a husband, they also take care of and care for their children and take care of household interests.

d. Legal Principles

The principle is a basis but not something absolute or absolute, meaning that the application of the principle must consider certain or special circumstances and in changing circumstances.

According to Bin Cheng in his book entitled General Principles of Law, said that:

“The principle is yet another instance of the protection which law”

In its application, the principle must consider various aspects and the principle is one of the legal protections that form the basis for the rule of law which is concrete in nature regarding the legal action (behavior).

Legal Principles in Civil Law:

1) Audi et Ateram Partem

This principle mandates that judges must not give a decision without giving an opportunity to hear both parties. With this principle, the judge must also be fair in giving the burden of proof to the litigants, so that the opportunity to lose or win for the parties remains the same, not lame or one-sided.

2) Billijkheid

This principle is also called the principle of appropriateness, according to the Big Indonesian Dictionary appropriateness is appropriateness; feasibility; suitability; and suitability. In its application, this billijkheid principle is basically a continuation of the aud et alteram partem principle (listening to both parties) which requires the Judge to place the litigants equally. In its application to Religious civil litigation, this principle will make it easier for Judges to reveal the true subject of the dispute, so that truth and justice can be upheld as well as possible. However, the problem is only in the foresight of a Judge to use all the intellectual potential he has in order to determine the proportional burden of proof based on the principle of propriety (Billijkheid).

3) Ius Curia Novit

This principle commands that every judge must be presumed to know the law of the case being examined. Judges may not decide a case on the grounds that they do not know the law. Thus also the judge must create his own law if indeed the case he is facing has not been regulated by law or jurisprudence. The creation of law by the judge is usually by using the method of analogy or argumentum a contrario.

4) Nemo Testis Indoneus in Propria Causa

This principle means that no one can be a witness in their own case. Witnesses are evidence and must be brought in by someone who is not a party to the case. A person's subjectivity is instinctive and will inevitably affect a person's testimony. Testimony against another person can be influenced by one's subjectivity, let alone testimony for oneself. It is very difficult to say that a person can act and testify fairly in his own case, especially if the material of the testimony can obviously harm his own interests.

5) Ultra ne Petita

This principle limits the judge so that the judge can only grant what is demanded. Judges are prohibited from granting more than what is demanded by the plaintiff. Unlike the criminal case, where the judge can investigate the case more than the facts revealed by the prosecutor, even if necessary the witness who later turns out to be involved in the criminal act, can be made a defendant. This ultra ne petita principle limits civil judges to only be bound by valid evidence. This is in contrast to criminal procedure, where the judge must be absolutely certain of the truth of the evidence.

3. RESEARCH METHODOLOGY

This research is normative research. This normative research deals with the principles or principles in law. Normative legal research can also be called doctrinal legal research. According to Soerjono Soekanto and Sri Mamudji, normative research is research conducted by examining library materials or secondary data only. The library material that researchers reviewed was a copy of the decision of the Barabai Class I B Religious Court Number 286/Pdt.G/2022/PA.Brb. which focuses on the provision of mut'ah maintenance in divorce cases.

3.1. Research Design

The approach in the research conducted by the author is a statutory approach and a case approach. The statutory approach is carried out by examining all laws and regulations relating to the legal issues at hand. While the case approach is carried out by investigating cases related to the problem at hand, which have become court decisions that have permanent legal force. Through this approach, the author examines what is the basis for the judge's consideration in deciding the amount of mut'ah value in decision number 286/Pdt.G/2022/PA.Brb. and how the application of the principles of appropriateness and feasibility in determining the level of mut'ah value in decision number 286/Pdt.G/2022/PA.Brb. reviewed from positive law.

3.2. Participants of the Study

Data collection techniques in this study are:

- a. Document study, namely collecting legal material from documents in the form of a copy of the decision of the Barabai Class I B Religious Court, namely number 286/Pdt.G/2022/PA.Brb.
- b. Literature study, namely searching for legal materials by reading, looking, listening, and even doing internet searches.

Legal material processing techniques:

- a. Examination of legal materials, namely correcting whether the legal materials that have been collected are sufficiently complete, correct, and relevant to the problem to be studied.
- b. Marking of legal materials, namely giving notes or marks that state the source of legal materials.
- c. Reconstruction of legal materials, namely placing legal materials in a systematic framework of discussion based on the order of the problem.

3.3. Instruments

The sources of legal materials used in this research are primary, secondary and tertiary legal materials.

- a. Primary legal materials, are legal materials that are authoritative or have authority. Primary legal sources obtained directly, namely a copy of the decision of the Barabai Class 1 B Religious Court, Number 286/Pdt.G/2022/PA.Brb.
- b. Secondary legal materials are publications that are not official documents, for example books, theses, dissertations and journals on law. The most important secondary legal materials in this research are books whose discussions are related to nusyuz wives, mut'ah maintenance, and the principle of propriety, namely.
 - 1) The book entitled *Fiqh Islam wa Adillatuhu* by Wahbah az-Zuhaili.
 - 2) The book entitled *Fiqh Five Mazhab* by Muhammad Jawad Mughniyah was later translated by Masykur A.B, Afif Muhammad, and Idrus al-Kaff.
 - 3) A book entitled *Introduction to Jurimetry and its Application in the Settlement of Civil Cases* by M. Natsir Asnawi
 - 4) The article entitled *Application of the Billijkheid (Appropriateness) Principle in the Burden of Proof in Civil and Religious Civil Cases (A Review with the Approach of Islamic Law and Positive Law)* by M. Natsir Asnawi
- c. Tertiary legal materials, are legal materials that provide an explanation of primary and secondary legal materials. The tertiary legal material used in this research is the Big Indonesian Dictionary.

3.4. Data Analysis Techniques

The analysis used in this research is qualitative analysis. Therefore, legal materials collected through document studies are grouped according to the topics discussed. Then, the legal material is interpreted and analyzed to gain clarity (solve problems).

4. RESULTS

On June 7, 2022 the Petitioner was registered at the Registrar of the Barabai Religious Court with the number 286/Pdt.G/2022/PA.Brb. The parties (Petitioner and Respondent) have been married since November 22, 2015 which was later recorded by the Marriage Registrar of the Barabai District Religious Affairs Office. The parties reside together in Barabai Residence Housing and from the marriage have been blessed with 2 children, the first child is 4 years old and the second child is 1 year old.

However, since 2017 the household between the applicant and the respondent began to be disharmonious due to disputes and arguments because the respondent was not willing to serve the inner needs of the applicant on the grounds of sleepiness, fatigue and others and the culmination of the dispute occurred in 2022, namely the applicant left the joint residence. Even the family had tried to advise the parties to reconcile, but it was still unsuccessful because the Petitioner remained in his stance of wanting a divorce from the Respondent.

The litigants, namely the Applicant and Respondent, have attempted to reconcile, both in court and in the mediation process. However, the mediation was only partially successful. This has fulfilled the provisions contained in Article 82 paragraphs 1 and 4 of Law No. 7 of 1989 as amended by Law No. 3 of 2006 and Law No. 50 of 2009 jo. Article 154

paragraph 1 Rbg and Article 2 of Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court.

For more than 2 months the Petitioner and the Respondent have been separated and are no longer in contact as a harmonious married couple. Based on these facts, the Applicant and Respondent have neglected their respective obligations to love each other, respect, be faithful and provide physical and mental assistance to one another as stipulated in Article 33 of Law No. 1 of 1974 concerning marriage, because the physical togetherness of the two parties as the main medium for this has never materialized again in the household of the Applicant and Respondent.

According to the judge, the Respondent is included in the nusyuz category, which affects the Respondent's post-divorce rights, namely not getting maintenance during the iddah period and nafkah madhiyah (past due). However, a wife is entitled to mut'ah from her husband, regardless of whether she is nusyuz or not. The essence of the mut'ah obligation is for the husband to release his wife in a good way by giving a decent gift to the divorced wife so that she remains strong and does not harbor deep sadness due to divorce from her husband.

Based on the facts of the trial, it is known that the Applicant has an opinion of at least Rp. 3,000,000.00 (three million rupiah) per month. The parties have been living together for almost 7 years, and the Respondent has devoted herself as the wife of the Petitioner and has given birth to and raised 2 children of the Petitioner and Respondent, therefore the Respondent is entitled to mut'ah.

To determine the amount or nominal mut'ah that is appropriate and fair, the judge uses the jurmetry method, which is one of the policy recommendations in the judicial field as in the policy summary of the Guarantee of Protection of the Rights of Women and Children After Divorce of the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia as stated in the Decree of the Director General of Religious Courts Number 1959 of 2021 concerning the Implementation of the Policy Summary of the Guarantee of Protection of the Rights of Women and Children After Divorce. M. Natsir Asnawi, S.H.I., M.H., in his book entitled Introduction to Jurimetry and its Application in the Settlement of Civil Cases, which is subsequently agreed by the Judge and taken over as the opinion of the Judge, states that among the ways of determining mut'ah that is feasible and fair, it can be guided by referring to the husband's net monthly income and the length of the marriage, which is then expressed in the formula:

$$m = (10\%-20\%) \times n \times l$$

Description:

m : The value of a decent and fair mut'ah

n : Husband's net income per month

l : Length of marriage

(10% - 20%) : The percentage range of the coefficient of experience that can be selected

Based on this formula, the nominal value of mut'ah can be calculated as follows.

$$m = 15\% \times n \times l$$

$$m = 15\% \times 3,000,000 \times 7$$

m = 3,150,000.00 (three million one hundred fifty thousand rupiah)

That subsequently the mut'ah value will be rounded off so that the mut'ah value that should be given by the Applicant to the Respondent becomes Rp. 3,200,000.00 (three million two hundred thousand rupiah). Based on this amount, the Judge determined that the Applicant should be ordered to pay mut'ah in the form of money to the Respondent in the amount of Rp. 3,200,000.00 (three million two hundred thousand rupiah).

5. DISCUSSION

Formally and seen from the procedural law theory that the author has mentioned above, decision number 286/Pdt.G/2022/PA.Br. is completely correct formally. What the author analyzes is the material part only, namely:

a. The Nusyuz of a Wife

In the decision of the Barabai Religious Court case number 286/Pdt.G/2022/Pa.Br. The Respondent was categorized by the judge into the category of nusyuz, because according to the judge there was an element of negligence of obligations between husband and wife that caused quarrels and disputes between the two parties. The judge was of this opinion because the Respondent did not want to serve the inner needs of the Petitioner on the grounds of being sleepy and tired. Therefore, according to the judge, the Respondent was included in the category of nusyuz.

According to the book *Fiqh Islam wa Adillatuhu* written by Wahbah az-Zuhaili, namely.

وَجُوبُ طَاعَةِ الزَّوْجَةِ لِزَوْجِهَا إِذَا دَعَاهَا إِلَى الْفِرَاشِ

"It is the wife's duty to obey her husband if invited to bed."

According to articles 83 paragraph 1 and 84 paragraph 1 of the Compilation of Islamic Law, a wife is considered nusyuz if she does not want to carry out her obligations as a wife, namely physical and mental devotion to her husband to the extent justified by Islamic law. If the wife does not want to carry out her obligations as a wife, she must provide a valid reason. Then according to the Maliki madhhab, if the wife refuses to have intercourse, then the wife's right to maintenance is waived on the day she refuses.

From this and looking at the facts of the trial, the Respondent was indeed included in the category of nusyuz, because she did not want to serve the inner needs of the Petitioner. However, the reason for the Respondent's refusal to the Petitioner was valid, because the Respondent did not want to serve the inner needs of the Petitioner on the grounds of being sleepy and tired. This was also based on the position of the Respondent who had to work and also had to take care of her young children, the first child was 4 years old while the second child was 1 year old.

However, Hanafis differ with all other madhhabs, according to the Hanafi madhhab is as long as the wife is still in the joint residence or in her husband's house and if she leaves the joint residence or her husband's house still asks his permission, then this is still considered obedient, even though she is not willing to be interfered with without a valid Shara' reason, Her refusal is indeed haram, but it does not invalidate her right to maintenance, because according to the Hanafi madhhab, the reason for the obligation to provide maintenance is when the wife is still in the shared residence, the issue of conjugal relations or spiritual maintenance has no connection with the

obligation to provide maintenance. This is because all the other madhhabs agree that if the wife does not allow her husband to have sexual intercourse with her and to be alone with her without any reason based on shara' or reason or logic, then she will be considered a nusyuz woman and is not entitled to maintenance.

Based on the hadith:

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَأَبُو كُرَيْبٍ قَالَا: حَدَّثَنَا أَبُو مُعَاوِيَةَ؛ ح: وَحَدَّثَنِي أَبُو سَعِيدٍ الْأَشْجِيُّ: حَدَّثَنَا وَكَيْعٌ؛ ح: وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ - وَاللَّفْظُ لَهُ - حَدَّثَنَا جَرِيرٌ، كُلُّهُمُ عَنِ الْأَعْمَشِ، عَنِ أَبِي حَازِمٍ، عَنِ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: إِذَا دَعَا الرَّجُلُ امْرَأَتَهُ إِلَى فِرَاشِهِ، فَلَمْ تَأْتِهِ، فَبَاتَ غَضْبَانٌ عَلَيْهَا، لَعْنَتُهَا الْمَلَائِكَةُ حَتَّى تُصْبِحَ

"And narrated to us Abu Bakr ibn Abi Shaibah and Abu Kuraib both of whom said; narrated to us Abu Mu'awiyah. And narrated from another route, has narrated to me Abu Sa'id al-Asyaj has narrated to us Waki'. And it was narrated from another route, has narrated to me Zauhair bin Harb and the wording is from him, has narrated to us Jarir all from al-A'masy from Abu Hazim from Abu Hurairah he said; Rasulullah Shalallahu'alaihi Wasallam said: "If a man invites his wife to have intercourse with him, but she does not fulfill his invitation, and he becomes angry that night, then she will be cursed by the angels until dawn." (H.N. by Muslim)

According to the book entitled Fatawa Qardhawi by Yusuf al-Qardhawi then translated by Abdurrachman Ali Bauzir, namely looking at the hadith above, this situation is if it is done without an excuse and a reasonable reason, such as sickness, tiredness, absence, or things that are feasible.

However, according to Indonesian Muslim Feminist, K.H. Husein Muhammad, the hadith is not only found in one narration, but the hadith cannot be understood only textually or with a straightforward understanding, because this hadith according to K.H. Husein Muhammad is addressed to women who do not have a strong reason to refuse their husband's invitation, but if there is a strong reason or fear of being wronged by their husband then the refusal is valid or justified.

Then, according to Siti Musdah Mula, what needs to be seen or analyzed from the hadith is the wife's refusal, from this context it is necessary to know the reasons why the wife refused her husband's invitation. If for example a wife refuses her husband's invitation without a logical reason or even without a clear reason, then the wife should get punishment from the angel and the wife can be considered as nusyuz. However, if a wife's refusal is on humanitarian grounds, for example sick, tired, tired or not in the mood, then it can be justified or it is a valid reason.

So, from the two opinions above, the author argues that these opinions are very relevant to what happened in the incident in the decision that the author examines, namely if a wife is tired or tired or sleepy in terms of serving her husband's inner needs, it does not necessarily mean that the wife is disobedient because she does not want to obey her husband's orders, it is necessary to look again at the cause of the tiredness or fatigue or sleepiness. If the feeling of tiredness or fatigue or sleepiness is not caused by work or obligations that must be fulfilled, for example, tired because she went to play with her friends or went shopping not for her household needs but for her

personal needs, then it can be ruled that the wife is disobedient to her husband for this reason. However, if the wife is tired from doing the work she has to do and taking care of her children, then the reason for being tired or tired or sleepy can be justified and the wife if she refuses the husband's invitation for reasons motivated by this, then according to the author the wife cannot be categorized as a nusyuz wife.

b. Imposition of Mut'ah on the Petitioner

The judge is obliged to provide mut'ah in order to remain intertwined within the framework of *hablun min an-naas*. This is also according to the author based on the desire of the parties to divorce amicably, as mentioned in the results of the partially successful mediation. In determining the amount or nominal mut'ah, the judge uses the method of jurimetry which is considered by the judge to produce mut'ah that is feasible and fair. This method of jurimetry is suggested by policy in the judicial field as in the Policy Brief for the Protection of Women and Children after Divorce in the Decree of the Director General of the Religious Courts Agency Number 1959 of 2021, which states that, the provision of a regular method of analysis in determining the consequences of divorce, including the method of jurimetry. This means that the use of these methods is expected to create court decisions that are consistent and present balanced and measurable justice. So, the author agrees with what the judge considered in his legal reasoning that the Respondent is entitled to mut'ah, because this is seen from the results of a partially successful mediation which states that the parties want to separate amicably.

In the theory in the book written by M. Natsir Asnawi in the form of Introduction to Jurimetry and its Application in Civil Case Settlement, if a married couple is blessed with children, then in determining the value of mut'ah it uses the following formula:

$$m = 20\% \times n \times l$$

In determining the value of mut'ah, it is based on consideration, namely the difference in the coefficients of 10% and 20% for couples who are blessed with children and not blessed with children, this is based on consideration of respect for a wife who can provide offspring. This means that with the presence of children or offspring, a wife's dependents or responsibilities as a wife increase in addition to serving a husband, they also take care of and care for their children and take care of household interests.

In using the jurimetry method, the Judge uses the following formula:

$$m = (10\% - 20\%) \times n \times l$$

Description:

m : The value of a decent and fair mut'ah

n : Net income of husband per month

l : Length of marriage

(10% - 20%) : Percentage range of multiplier coefficient that can be selected

Thus, from this formula the Judge determines the nominal value of mut'ah to be awarded to the Plaintiff, namely:

$$m = 15\% \times n \times l$$

$$m = 15\% \times 3,000,000 \times 7$$

$$m = 3,150,000.00 \text{ (three million one hundred fifty thousand rupiah)}$$

Then from these results the Judge rounded up from the initial Rp. 3,150,000.00 (three million one hundred and fifty thousand rupiah) to Rp. 3,200,000.00 (three million two hundred thousand rupiah), which according to the Judge the rounding fulfills the principles of propriety and feasibility.

According to the author, the formula used by the judge in determining the mut'ah rate. Looking at the incident on the basis of the facts of the trial and the concept of the formula, then according to the author it is not appropriate, because the judge should have used the formula rather than using units of years but using units of months. This is based on the applicant leaving the joint residence for 2 months, meaning that if the year unit is used, none of the parties should have left the joint residence. This is based on a book entitled Introduction to Jurimetry and its Application in Civil Case Settlement by M. Natsir Asnawi, which states that:

"The length of the marriage determines the size of the mut'ah. This is because, in general, the longer a marriage lasts, the greater the devotion and sacrifice of the wife, which should be rewarded with a greater value of mut'ah."

So, from this statement and looking at the facts in the trial that the parties have not been living together for more than 2 months, then according to the author, the unit of months should be used, namely from 7 years to 84 months and minus 2 months to 82 months. Then, looking at what the Judge examined in the trial, the Judge did not ask for the Applicant's salary slip for consideration in the matter of maintenance, but only asked for information through the witness about the Applicant's average monthly income. Seeing from what the judge did and the concept of the formula used, according to the author, the value of 'n' means the husband's net income, not the husband's take home pay or the husband's monthly income, based on this, according to the author, it would be better to take the value of 'n' as Rp. 300,000. So, for more details the author describes it as follows.

$$m = 15\% \times n \times l$$

$$m = 15\% \times 300,000 \times 82$$

$$m = 3,690,000 \text{ (three million six hundred ninety thousand rupiah)}$$

If rounded up to Rp. 3,700,000 (three million seven hundred thousand rupiah). Then this value according to the author is an appropriate mut'ah because it sees from the wife's dedication before her husband left the joint residence. This is also according to the author seeing from the Respondent's treatment at the time of the trial wanting to open the door to reconciliation. Therefore, according to the author, this can be taken into consideration that the Respondent is ready to improve himself again as long as the household can be maintained.

However, mut'ah should be in the form of objects or goods that are useful and have value, this is also according to the author in order to fulfill the concept of mut'ah itself, namely comfort for the heart of a wife who has been divorced by her husband.

c. Principles used by Judges in Determining the Amount of Nafkah Mut'ah

It can be seen that in sentencing the Applicant to pay mut'ah to the Respondent, the Judge used the theory of jurimetry in determining the level of mut'ah value and used the principle of propriety to measure whether the Respondent deserved the amount of mut'ah. According to M. Natsir Asnawi in his article entitled Application of the Billijkheid (Appropriateness) Principle in the Burden of Proof in Civil and Religious Civil Cases (A Review with the Approach of Islamic Law and Positive Law), states that the application of the principle of appropriateness is a continuation of the principle of listening to both parties (*audi et alteram partem*) which requires a Judge to place the parties equally. In religious civil law, this principle will make it easier for Judges to reveal the real point of dispute, so that truth and justice will be upheld as well as possible. The problem is only with the Judge himself who requires foresight to use this principle with all the intellectual potential of the Judge to determine the proportional burden of proof based on the principle of propriety (*Billijkheid*).

However, because this principle is abstract and not absolute, it is free to be used anywhere in any law in order to achieve the expected justice. According to the Big Indonesian Dictionary, propriety itself has the meaning of appropriateness; feasibility; and suitability. This means that this principle in its application must consider the person who will be burdened by the law whether it is appropriate or feasible or appropriate for someone to be burdened by a law. Appropriateness can be associated with morality or appropriateness in the aspect of decency. Thus, according to the author, it is necessary to consider further or deeper in the future in the application of this principle of propriety by considering the behavior of the parties towards other parties.

6. CONCLUSION

In deciding the amount of mut'ah value, the judge uses the method of jurimetry, which is conceptually inappropriate because it must be seen again how the wife's dedication and the length of time the husband and wife live in a joint residence.

The next legal issue that arises in this decision is related to the *nusyuz* of a wife. The invitation to bed is not necessarily punishable by *nusyuz*, but it must be seen again from the emergence of the reason for the refusal, whether because of the obligations of a wife or just because of her own interests. Then related to the principle of propriety, in the application of this principle, we should pay more attention to the devotion or behavior of each party to the other party.

REFERENCES

- Abror, Khoirul. (2017). *Hukum Perkawinan Dan Perceraian*. Yogyakarta: Ladang Kata.
- Achmad Ali and Wiwie Heryani. (2012). *Asas-Asas Hukum Pembuktian Perdata*. Jakarta: Kencana.
- Asnawi, M. Natsir. (2013). "Penerapan Asas Billijkheid (Kepatutan) dalam Pembebanan Pembuktian pada Perkara Perdata dan Perdata Agama (Suatu Tinjauan dengan Pendekatan Hukum Islam dan Hukum Positif)." https://docs.google.com/file/d/0B5DxaF_gujxbRkRfekJKNEhYRWs/edit?resourcekey=0-JlsySRyfOQi7fZwelUodPQ.
- . (2019). *Hukum Acara Perdata: Teori, Praktik, Dan Permasalahannya Di Peradilan Umum Dan Peradilan Agama*. Yogyakarta: UII Press.
- . (2020). *Pengantar Jurimetri Dan Penerapannya Dalam Penyelesaian Perkara Perdata*. Jakarta: Kencana.
- Atmadja, Dewa Gede. (2018). "Asas-asas Hukum dalam Sistem Hukum." *Kertha Wicaksana* 12(2). <https://www.ejournal.warmadewa.ac.id/index.php/kertawicaksana/article/download/721/504>.
- Cheng, Bin. (1987). *General Principles of Law*. Washington DC: Grotius Publications Limited. https://icsid.worldbank.org/sites/default/files/parties_publications/C6106/2020.01.20%20Claimants_%20Rejoinder/Legal%20Authorities/CL-0170%20resubmitted.pdf.
- Departemen Agama RI. (2003). *Al-Qur'an Prada Dan Tajwid*. Jakarta: Yayasan Fastabikul Khairat.
- Efendi, Jonaedi, and Johnny Ibrahim. (2020). *Metode Penelitian Hukum Normatif Dan Empiris*. Jakarta: Kencana.
- Endang Hadrian and Lukman Hakim. (2020). *Hukum Acara Perdata Di Indonesia: Permasalahan Eksekusi Dan Mediasi*. Yogyakarta: Deepublish.
- Fasihuddin, Muhammad et al. (2021). *Syarah Fathal Qarib: Diskursus Munakahah*. Malang: Ma'had Al-Jami'ah al-Aly UIN Maulana Malik Ibrahim.
- Fuadah, Aah Tsamrotul. (2019). *Hukum Acara Peradilan Agama plus Prinsip Hukum Acara Islam Dalam Risalah Qadha Umar Bin Khattab*. Depok: PT RajaGrafindo Persada.
- Ishaq. 2020. *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Dan Disertasi*. Bandung: Alfabeta.
- Ja'far, Kumedi. (2020). *Hukum Keluarga Islam Di Indonesia*. Bandar Lampung: Arjasa Pratama.
- Jaya, Angga. (2021). "Nafkah Mut'ah Dalam Perspektif Empat Mazhab." Skripsi tidak diterbitkan. Fakultas Syariah UIN Raden Intan. <http://repository.radenintan.ac.id/17225/1/BAB%201%20%26%20II.pdf>.
- al-Juzairi, Abdurrahman. (2015). *Fikih Empat Mazhab*. Jakarta: Pustaka al-Kautsar.
- Marzuki, Peter. (2017). *Penelitian Hukum*. Jakarta: Kencana.
- Mughniyah, Muhammad Jawad. (2012). *Fiqh Lima Mazhab*. Penerbit Lentera.

- Munib, Abdul. (2018). "Hukum Islam dan Muamalah (Asas-asas Hukum Islam dalam Bidang Muamalah)." *Al-Ulum: Jurnal Penelitian dan Pemikiran Ke Islam* 5(1). <https://www.journal.uim.ac.id/index.php/alulum/article/view/363/266> (May 11, 2023).
- Muthahir, Ardi, and Ahmad Fuadi. (2020). "Tinjauan Filsafat Hukum tentang Nusyuz (Telaah Pasal 80 dan Pasal 84 Kompilasi Hukum Islam KHI)." *Law Journal (Lajour)* 1(1). <https://journal.univbinainsan.ac.id/index.php/law/article/view/41/15>.
- an-Nawawi, Abu Zakaria Muhyiddin. (2010). *Syarah Shahih Muslim*. Jakarta: Darus Sunnah Press.
- al-Nisaburi, Abu al-Husain Muslim ibn al-Hajjaj ibn Muslim al-Qushairi. (2000). *Shahih Muslim*. Arab Saudi: Daar as-Salam.
- Pengadilan Agama Sumber Kelas IA. (2019). "Tahapan-Tahapan Perkara." *Pengadilan Agama Sumber Kelas IA*. <https://web.pa-sumber.go.id/tahapan-tahapan-perkara/> (July 10, 2023).
- Sarwono. (2014). *Hukum Acara Perdata Teori Dan Praktik*. Jakarta: Sinar Grafika.
- Soesilo. (2020). *Kitab Undang-Undang Hukum Perdata*. Bandung: Buana Press.
- Tihami, H.M.A., and Sohari Sahrani. (2009). *Fikih Munakahat: Kajian Fikih Nikah Lengkap*. Jakarta: PT RajaGrafindo Persada.
- Tim Penyempurnaan Terjemahan Al-Qur'an. (2019). *Al-Qur'an Dan Terjemahannya Edisi Penyempurnaan 2019*. Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an.
- Tim Permata Press. (2020). *Kompilasi Hukum Islam (KHI)*. Surabaya: Permata Press.
- Usamah. (2013). "Pemahaman Hadis-hadis Misoginis Menurut Ulama Hadis dan Feminis Muslim Indonesia." *Jurnal Studia Insania* 1(2). <http://jurnal.uin-antasari.ac.id/index.php/insania/article/view/1085> (May 25, 2023).
- Yulia. (2018). *Hukum Acara Perdata*. Lhokseumawe: Unimal Press.
- Yusuf Qaradhawi. (1996). *Fatawa Qardhawi*. Surabaya: Risalah Gusti.
- Zainuddin Ali. (2019). *Metode Penelitian*. Jakarta: Sinar Grafika.
- az-Zuhaili, Wahbah. (1984). *Fiqih Islam Wa Adillatuhu*. Damaskus: Dar al-Fikr.
- . (2011). *Fiqih Islam Wa Adillatuhu*. Depok: Gema Insani.