

## Reconstruction of Divorce Suit Regulations on the Reason That the Husband Does Not Provide Maintenance to the Wife Based on the Values of Justice

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### **Abstract**

Maintenance is a wife's right during marriage and after divorce within a certain time limit. This study aims to: (1) analyze the unjust regulation of divorce lawsuits due to a husband's failure to provide maintenance; (2) examine the weaknesses of the existing regulations; and (3) reconstruct the regulations based on the principle of justice. The research employed a constructivist paradigm with normative and empirical approaches, using a descriptive research design. Data sources consisted of secondary legal materials (primary, secondary, and tertiary), with data collected through literature review, qualitative descriptive analysis, and field studies. The theoretical framework includes the Theory of Islamic Justice (Grand Theory), Legal System Theory (Middle Theory), and Progressive Legal Theory (Applied Theory). The findings reveal that: (1) Regulations concerning divorce lawsuits due to the husband's failure to provide maintenance are still unjust, as marriage laws remain ambiguous and influenced by patriarchal cultural biases. As a result, divorce rulings are easily granted even when the fault lies with the husband, without any compensation for the wife. (2) The weaknesses of the regulation lie in three aspects: legal substance (lack of protection for the wife's rights post-divorce), legal structure (the passive role of Religious Court officials who rely solely on legal texts), and legal culture (low public legal awareness and prevalent legal manipulation). (3) Justice-based reconstruction includes value reconstruction (redefining the basis of regulation to ensure fairness) and normative reconstruction, namely adjustments to Law No. 16/2019 on Marriage (Article 7 paragraph 1) and Supreme Court Circular No. 1/2022 to align with the *sighat ta'lik talak*. Therefore, the regulation must be revised to ensure justice for wives, both during the divorce process and in the post-divorce period.

**Keywords:** *Reconstruction; Regulation; Divorce Lawsuit; Maintenance; Justice*

### **Introduction**

In the Indonesian legal system, family problems or disputes are resolved through the judiciary, and for the Muslim community, they are resolved through religious courts, which are based on Islamic

family law. The existence of religious courts is clearly stated in Article 24 paragraph (2) of the 1945 Constitution as amended, which states: Judicial power is exercised by a Supreme Court and judicial bodies under it in the general court environment, religious court environment, military court environment, state administrative court environment, and by a Constitutional Court. In addition to being stated in the basic rules above, the existence of religious courts is stated again in Article 25 paragraph (1) of Law Number 48 of 2009: judicial bodies under the Supreme Court include judicial bodies in the general court environment, religious court environment, military court environment, and state administrative court environment. The Religious Court, which is a First Instance Court, has the duty and authority to examine, decide, and resolve cases at the first level between Muslims in the fields of marriage, inheritance, wills, grants, endowments, zakat, infaq, shadaqah, and sharia economics. Purpose the formation of A law is for reach happiness public (Nasution, B.J., 2016).

In recent years, the trend of divorce has clearly become more widespread and has begun to penetrate class boundaries, both social class, territory, and religion. Divorce does not only occur in households in the upper social strata but has also begun to infect the lowest social strata, not only in non-Islamic countries but also in countries with a Muslim majority. Divorce is very common and is considered normal, it can happen to anyone.

The regulations governing marriage still seem biased and favor patriarchal culture, which has an impact on the ease of divorce decisions being granted, even though the trigger for the breakdown of the household is the husband, without any compensation or compensation to the wife. This is different from Malaysia, Yemen and Jordan which have made strict legal regulations in terms of protecting wives from obtaining their rights if they are divorced by their husbands without a reason that is justified by law.

The values of legal norms stated in Article 41 of Law Number 1 of 1974 as amended by Law Number 16 of 2019, and Article 149 of the KHI provide protection to wives who are divorced by their husbands, but do not provide protection to wives who are divorced by their husbands due to the husband's mistake, so that in this situation the wife is disadvantaged.

Mature This Lots happen cases Where husband No functioning as his role in the family that should be capable protect and shelter wife and children, will but what happened is on the contrary husband No support his family.

Living is cost life that becomes right wife Good in marriage and also after the occurrence divorce with provision there is a time limit after the occurrence divorce. Livelihood become a things that are elastic and flexible depends the conditions surrounding it in the form of fact social and development need life man as well as condition real from life partner husband wife in marriage. Maintenance also includes cost House stairs, cost maintenance, and costs treatment for wife. Manhood a the most prominent man is problem work, because Work is tool livelihood living, and living one form realization of worship in House stairs (Yasin F.A., 2006: 69). Various living reviewed from it's time consists of from living in the bond period marriage and maintenance post break up marriage (Subaidi, 2014: 164).

The impact of divorce is one of the triggers for the instability of children's psychological conditions. Bumpass and Rindfuss stated that children of divorced parents tend to have educational problems. In the emotional dimension, children who live in a circle of divorce often experience heart disorders, feelings of depression, shyness, rebelliousness and often experience emotional instability. Thus it can be said that divorce has a negative impact on children's psychological development. In general, the psychological development of children whose parents are divorced is very disturbed, in addition to the negative factors of the impact of divorce is the lack of affection and attention from both parents to the child (Azizah et al., nd). On the other hand, children who are raised in an incomplete family tend to

experience past trauma, especially when they have witnessed acts of violence experienced by their parents (Sarhini & Wulandari, 2014).

The facts also reveal that absence ability husband in fulfil needs and or economy family / home ladder be one of trigger act violence in House stairs. According to Kresna Agung Yudhianto, in his book Child Protection Law & Domestic Violence " Violence economy / neglect House ladder in the form of violence in form neglect economy in general happen Because husband No give livelihood and rights economy other to wife, child or member family other in scope House ladder. In essence, everyone is prohibited abandon people in scope House the stairs, even though according to applicable law for him or Because agreement or agreement He must give life, care, or maintenance to that person".

Claims a wife for husband give living must Good in the form of living born and also living inner is is a a very natural thing and even based on provision legislation, as stated in Constitution Number 1 of 1974 concerning Marriage in Article 34 paragraph (1) which states "The husband is obliged to protect his wife and gave all something needs life homeless ladder in accordance with his ability". next verse (2) reads " Wife must arrange affairs House ladder as best as possible " and paragraph (3) reads "If the husband or wife neglect their respective obligations can submit lawsuit to Court.

And because action I the wife I No consent and submit lawsuit to Religious Court, then if his lawsuit accepted by the Court said, then wife I pay Rp. 10,000,- ( ten thousand rupiahs) thousand rupiah) as iwadh ( substitute ) to I, my divorce fell One to him. To Court the I give power for receive iwadh money and submit it to the local National Zakat Amil Agency For social worship needs".

With thus with base sigh rope the so if one of them among the 4 (four) promises made moment after the marriage contract violated by husband and other parties wife feel objection, party wife can submit divorced sue through Religious Court and if his objection justified exercise Local Religious Court so Already one divorce fell.

Development the more increasing cases divorce in Indonesia is one of the base issuance of the Circular Letter Supreme Court Number 1 of 2022 concerning Enforcement formulation results plenary session of the chamber Supreme Court in 2022 as Guidelines Implementation Duties for the Court. Where in SEMA Number 1 of 2022 on the Formulation of the Law of the Religious Chamber, on Marriage Law the letter b makes a sound.

That the rules contained in the Circular Supreme Court Number 1 of 2022 concerning Enforcement formulation results plenary session of the chamber Supreme Court in 2022 as Guidelines Implementation Duties for the Court, in particular real has No in line with sigh the decisive decision that if Husband Does Not Give living must to wife 3 (three) months length and wife objections and submission divorced sue so one divorce falls. In addition, the provisions that Case divorce with reason husband and wife No carry out obligation living born and/ or inner, only can granted If proven husband and wife No carry out his obligation after a minimum of 12 (twelve month) as specified in the Circular Letter The Supreme Court is concerned, no give mark justice for wife who doesn't work. Term time No given living for 12 (twelve month) too long and or long For a wife who doesn't work and or No have income Alone For to live himself, thing the Of course will trigger the emergence matter matter bad as consequence from absence ability in a way economy, so that need done research and study more carry on to provision related regulation divorced sue with reason husband No give living to wife with based on mark justice.

Man No get sanctions nothing although desire divorce That from wife, because sometimes submission divorced sued by wife due to he has divorced her husband downstairs hands and or has abandoned by her husband without supported for a long time. Maulida & Busyro, (2018) On some case,

filing lawsuit divorced by wife because of existence violence to wife Good in form physique and also psychic, no existence not quite enough answer husband in matter to support family, existence disturbance party third, no existence harmony, and so on which ultimately arise desire For parting and ending House ladder (Helmi, 2014). Divorce new can implemented if has he did various method For reconcile second split parties ( husband and wife ) to still maintain integrity House ladder them and it turns out No There is another way except only with road divorce (Yusuf, nd).

The amount the sustenance that must be given, namely sufficient needs and requirements as well as depends on the circumstances and capabilities of the person in charge according to habit a place (Hasan, 2011: 172). Explained in Al-Baqarah letter verse 233

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا

*Meaning: "And the father's obligation is to provide food and clothing. to the mothers with method ma'ruf. someone No burdened but according to level his ability,"*

Basically How many big amount obligatory sustenance given by husband to wife that is can sufficient needs in a way reasonable, including needs food, clothing, housing and so on. The word makruf is used by the Koran and Hadith for give provision livelihood, meaning that living That given in a way fair ( moderate, middle) middle, no not enough from need but No not enough from needs ), according to with level life and circumstances wife and ability husband (Sarong, 2005: 115).

Then Article 80 paragraph (4) of the KHI which explains that " according to with her income, husband bear livelihood and place residence for wife, cost House stairs, cost care and treatment for wife and children, costs education for children,"

Based on description background behind on interesting for researcher For take title: “ Reconstruction Regulation Divorced sue With the Reason that the Husband Doesn't Give Living To Wife Based on Justice Values.”

### **Research Method**

Writer in study This use paradigm constructivism, a paradigm that views that knowledge law That only deal with regulation legislation solely. Law as something that must be done applied, and more tend For No to question mark justice and its usefulness for society. Legal studies and their enforcement only range about what is right and what is not right, what is wrong and what is not wrong and more other forms nature prescriptive.

Types of research used in finish dissertation This is method study legal descriptive analysis, namely research conducted with method research material library (secondary data) or study law library (Iwarm, 2010: 24), then described in the analysis and discussion. Approach research used in study This is study socio legal research. In research this, law conceptualized as a symptom empirical that can observe in life real.

Types of data used are primary and secondary data. For obtain primary data from researchers referring to to data or facts and cases law obtained direct through field research including information from related respondents with object research and practice that can see as well as relate with object research. Secondary data This useful as runway theory for underlying analysis the main points existing problems in study This.

## ***Results and Discussion***

### **1. Analysis Related Judges' Decisions Livelihood and How Implementation Execution of Judge's Decision**

Based on results interview with Mr. Drs. H. Ilham Mushaddag, SH., MH (retired Deputy Chairman) High Religious Court of East Kalimantan) shows that living for wife Already set up in a way firm in the Marriage Law. HAKAM in trial not enough play a role in mediation divorced sue, because 90% was given opportunity for mediation No succeeded. He says that HAKAM's role is lacking necessary because in court Already provided mediator has certified for chosen by both split parties. The role of HAKAM is only just giving advice to second split parties. Court always gives chance to husband wife for present family or the closest person, will but presence they most only give healthy and unhealthy able to Again For reconcile. The role of BP4 only burdensome for those in dispute and time Enough handled by the mediator.

Mr. Ilham also suggested that BP4 should have a mediator and register with the court as a mediator. He also explained that in matter husband No give livelihood, make notes and tell to family to be able to become witness (Mushaddag, nd).

Drs. Arpani SH, MH who served as a high judge Court High Religion of Samarinda to argue that HAKAM plays a role Enough active in reconcile second split party. HAKAM is very necessary for help reconcile the parties before submitted to court. While BP4's role is sufficient active as a mediator between the parties and assist finish problem family and find the best solution. The role of BP4 is very necessary. Because appointed by the government with task the main thing is finish the problem that occurred in family with objective to form SAMAWA family.

Mr. Arpani recommend that regulations that must be BP4 is applied give advisory and coaching in form course for candidate bride before contract taking place. Based on tool evidence and statements at trial, then the judge determines fact trial, then made into fact law, next draw legal conclusions, then loaded in Decision. form protection provided religious court against demands living from wife who doesn't Work namely SEMA No. 3 of 2018 and SEMA No. 07 of 2012 number 16 (Arpani, nd).

Existence law, it is expected conflict interest No Again solved according to who is the strongest but based on rules that are oriented towards interests and values objective with No differentiate between the strong and the weak. Orientation that's it called justice. So, the law is very much felt its function in life society, function That is in business for realize a life together with the good.

Based on consideration about function law said, giving meaning that law in a way true must sure and fair. The meaning of " definitely " as guidelines behavior and meaning of "fair" because guidelines behavior That must support an assessed order reasonable. Just because nature fair and enforceable with sure, law can operate its function. So, certainty and justice are not just moral demands, but rather in a way factual characterize law (Surajiyo, 2018: 21).

Issues of justice that arise within life society and state need parsed, good in field law, politics, society, economics, etc culture. As explained above, that there are regulations that have not been give justice in its substance. This is Of course contradictory with justice that becomes please in the philosophy of the Indonesian state, namely Pancasila.

Formation A regulation legislation must be based on Pancasila, because Pancasila is source from all source law. That Pancasila contains the precepts that have mark justice that can become runway base



for formation law, namely the 2nd principle and the 5th principle, which respectively read, " Just and civilized humanity " and " Justice social for all Indonesian people".

Just and civilized humanity is base from protection right basic that is humanize man in a way civilized without reduce his rights even a little bit. Justice social is justice used for differentiate justice social with draft justice in law. Justice social is also one of please in Pancasila, namely please fifth from the Pancasila which was formulated in Opening 1945 Constitution paragraph fourth.

second and third precepts fifth the poured-out values the State's goal for create justice in context life together. Meaning from please second and please fifth contain meaning justice in the form of value, of course must realized in life together. Justice the based on and inspired by the essence justice social that is justice in connection man with himself alone, relationship man with fellow, relationship man with nation and country then the last one is connection man with His God.

Pancasila as root from ambition law The Indonesian nation provides consequence that in dynamics life nation and state, as view the way of life that is embraced will give direction in thought and action. Legal ideals are ideas, will, creation and thoughts regarding with law or perception about meaning law, which in the main thing is consists of on three elements namely justice, utility or benefits and certainty law. legal ideals formed in mind and heart man as product blend view life, belief religion and reality society.

Islam requires right living to wife on her husband. The husband is obliged fulfil his needs and give shopping to him during bond husband wife That Still Walk and si wife No disobedient. This is in accordance with rule; " A person who holds back the rights of others or its usefulness, then He responsible answer to spend it,"<sup>28</sup> In the case of This living given based on not quite enough answer wife to her husband.

And if terms and conditions fulfilled above, then husband entitled give living to his wife. Where not There is difference opinion about problem right wife in accept living from her husband those, except servants. Even Allah SWT has obligatory living with His words in the Qur'an with Surah Al-Nisa verse: 5: " Give the shopping and clothes from results treasure that." (Al-Nisa": verse 5) (Jakfar & Fakhrrurrazi, 2017: 7) Giving living can have stopped with because wife applicable nusyuz. Nusyuz that is understood in discussion This is non-compliance wife to husband who caused husband lost right from his wife. Like disobedient wife obedient to commands husband with reasons that do not can accepted according to law syara ' and some action wife as Already mentioned in the points above. A husband must give living to his wife in two conditions: first, after they having sex or jimak. Second, at the time they No having sex but with reason her husband who is not Want to do intercourse or his wife No reject invitation intercourse but her husband left her wife for having sex. If the wife refuses invitation intercourse, then at the time That husband No must to support his wife. Likewise, if wife blurry from her husband ('Utsman et al., 2017: 150-151). However, if wife reject for do intercourse because wife in a state of being that is not allow such as sick, then not why. Likewise, the wife who ran away from House Because get treatment that is not Good or even get violence from her husband, then no categorized in action nusyuz and sustenance must still be given by husband.

Even though living become obligation husband to wife, but wife can also to free her husband from obligation support him. This is in accordance with Article 80 paragraph (6) of the KHI. However Thus, a hadith narrated by Aisyah ra who is a researcher get in the book Sahih Sunan ibn Majah explains that wife Still entitled get living after divorce happened (with existing provisions).

Existing opinions until Now in environment expert jurisprudence that cost wife divorced by her husband That No Again covered by her husband again. Opinion that is the most his followers especially

in divorce the wife who is considered wrong. In the case This considered wife No guilty, then the highest obtained about cost life is financing life during Still in a longer period of iddah less than 90 days that (Ramulyo, 1996: 113). However, after the iddah period, husband No Again obliged finance Again ex- his wife. After the iddah period finished, ex-wife may you are welcome or go out Alone from House ex- her husband.

Regulation Government Number. 9 of 1975 is used term divorce and divorce sue, thing This intended to be able to differentiate the meaning referred to by letter c in the law the. In giving divorce to someone husband must submit the matter to Court with the reasons that become because want to divorce his wife. Law No. 1 of 1974 tends to to complicate the occurrence a divorce. However, when a case No can be completed with method kinship by the parties to the case, then road the last one that can take is with method request help to Religious Court with submit application lawsuit by si wife to her husband.

As for 'iwadh can in the form of return dowry by wife to husband or several goods, money, or something I think I have the value that has been agreed by both split parties, namely husband and wife (Rushd, nd). Meaning, wife separate self from her husband with redeem himself, with method return dowry that ever received from her husband. Who became base from understanding This is hadith narration of Bukhari and Nasa'i from Ibn Abbas who narrated about wife Thabit bin Qais bin Syammas, who complained problem House the stairs to Rasulullah, so that He want to separate with her husband. The Messenger of Allah said, " Will you You return his garden (garden) your husband)?" Wife Tsabit answered, "I want to". So, the Messenger of Allah said "Hi Tsabit, please accept it garden that and divorce He once". Scholars of the school of thought agreed that treasure ransom in khulu ' should have value, and that the amount may same, less, or more Lots than the dowry (Sabiq, 1977: 252).

From the description above, it appears difference between divorced sue and humble '. However, Law Number. 7 of 1989 and the Regulation Government Regulation No. 9 of 1975 does not differentiate between both so that No talk about it. Therefore, settlement based on Article 148 of the Compilation of Islamic Law (KHI) which was originally case divorced sue with the creature after There is decision Religious Court then the execution referring to article 131 paragraph 5, namely husband to pledge her divorce to wife. Can concluded in a way substance that divorced sue is khulu ' because There is initiative wife for submit divorced to Religious Courts but what makes it different is No There is demands payment iwadh'.

The divorced wife ba'in they will lock up at home her husband due to her husband Still There is right to him in the form of certainty There is or whether conception in uterus so that reasonable Woman the must gets his livelihood. As for living in paragraph which is associated with with pregnancy, things That due to the iddah of pregnancy is the longest iddah so that need confirmed whereas for a longer iddah period short from That has covered in it. Livelihood the considered official debt since day divorce. Debt This No can have deleted, except Already paid paid off.

From the description above There is emptiness regulation related with matter this. In law positive especially in the Law Number 1 of 1974 in conjunction with Law Invite Number 16 of 2019 Concerning Marriage, Law Number 7 of 1989 in conjunction with Law Number 3 of 2006 in conjunction with Law Number 50 of 2009 concerning Religious Courts, and the Compilation of Islamic Law do not mention related with post divorce through the lawsuit process divorced. Article 78 of the Law Number 7 of 1989 Concerning Justice explain challenge determination the sustenance that must be filled husband during the ongoing trial process sue divorce, not giving iddah post-retirement living case has broken up and wife must carry out the iddah period. Judge as inventor law, see Circular Letter Supreme Court Number 03 of 2018 Results of the Religious Chamber Plenary Session Number 2 said that: " Livelihood madhiyah, livelihood, iddah, mut'ah, and livelihood child to perfect the formulation of the Religious Chamber in SEMA Number: 07 of 2012 number 16 so that reads: "The judge in set living madhiyah, iddah living,

mut'ah, and living child, must considering the sense of justice and propriety with dig fact ability economy husband and facts need base life wife and/ or child" (Circular, 2018).

Furthermore, in the same SEMA with number formulation Number 3: "Obligation husband consequence divorce to wife who does not nusyuz Accommodating Perma Number 3 of 2017 Concerning Guidelines to judge Women's Matter Face to Face with the Law, then wife in case divorced sue can given mut'ah, and living 'iddah throughout No proven nusyuz ". So based on SEMA above No close possibility for wife as plaintiff submit right livelihood that will be attached in letter lawsuit. However, in its implementation, the judge acts as a mujtahid and arbitrator case own authority for inspect more Far related with case the.

Regulation of Divorce Lawsuit on the Reason of Husband Not Providing Maintenance to Wife is not based on the value of justice that the regulations governing marriage are still unclear and favor patriarchal culture which results in divorce decisions being easily granted, even though the trigger for the breakdown of the household is the husband, without any compensation or compensation to the wife. Women in get justice in a way balanced with men, especially when he becomes a victim of abuse husband who does not justice. The values of legal norms stated in Article 41 of Law Number 1 of 1974 as amended by Law Number 16 of 2019, Article 149 of the KHI and SEMA Number 1. of 2022 provide protection to wives who are divorced by their husbands, but do not provide protection to wives who are divorced by their husbands due to the husband's mistake, so that in this situation the wife is disadvantaged.

## **2. Weaknesses in Regulation Divorced sue with the Reason that the Husband Doesn't Give Living to Current Wife Not Based on Justice Values**

### **a. Weaknesses of Aspects Legal Substance**

Weakness aspect substance law is Not yet There is substance law which is legitimate protect right wife post divorced husband consequence error husband who has not fair. In the context of structure law, found that structure not enough take role in realization realize justiceas objective made by him law. In the context of culture law, not yet There is law that can legally accommodate interest. Article 149 KHI provides protection to a wife who is divorced by her husband will but No give protection to divorced wife husband consequence error husband, so that in condition the party wife harmed.

### **b. Weaknesses of Aspects Legal Structure**

Weakness aspect structure law are the officials below shade Religious Courts are passive. The judges and their staff only stuck on text law in a way editorial. They are very rare do reinterpretation repeat to Language Articles. Articles in Constitution as if become something that has been frozen and not may interpreted. The judge only works and decide case as Language chapter in Constitution without brave do interpretation repeat. The reasons behind it behind emergence fact law without dug up in a way deep in order to realize a just decision. This is where proof from weakness law in Indonesia, especially in the realm of Religious Court is low judge's creativity for do excavation living law in society or at least in decide case when required through ijtihad method.

### **c. Weaknesses of Aspects Legal Culture**

Weakness aspect culture law that is awareness law people in Indonesia tend to low. Plus, again with the amount practice manipulation law so that public see formal law as formality merely. Culture in Indonesia is not culture single. Each region own wisdom their respective local wisdom. local This plays a



role important in to form characteristics society. This is applicable in context meaning public in interpret Language law divorce and practice taking law in the Religious Court.

### **3. Reconstruction Regulation Divorced sue with the Reason that the Husband Doesn't Give Living to Wife Based on Justice Values**

#### **a. Comparison with Foreign Countries**

##### **1) Singapore**

Regulation about procedure submission divorce in singapore is regulated in the Administration of Muslim Law Act (Chapter 3) Muslim Marriage and Divorce. Regulations This is explanation and rules executor about divorce in Singapore. If in Syeksen or Article 46A-50 AMLA is explanation about divorce in a way general, then in the regulations This will explain more Details How submit divorce the to Sharia Court in Singapore. Explanation about divorce set up in Part IIA Administration of Muslim Law Act (Chapter 3) Muslim Marriage and Divorce (Amendment) Rules 2018. Couples who wish to divorce will through a few stages in the Sharia Court. following is stages litigation in the Sharia Court:

- a) Stage Complaint
- b) Stage Counseling at the stage counseling
- c) Stages Mediation
- d) Stages (Pre Talk)
- e) Stages Talks
- f) Hakam Stages
- g) Stages of the Seduction Agency

Stage institution seduction is stage advanced if one of them party Still feel not enough satisfied with the decision issued Sharia Court. Previously, the judge had made related decisions with things divorce like right guard children, property gono like this, and demands iddah and mut'ah livelihood. If one or second partner the feel No satisfied with decision said, then can make Appeal approval (appeal) to the Appeal Institution which is in the Assembly Islamic Religious Council of Singapore (MUIS).

##### **2) Malaysia**

In Malaysia the law The Islamic family is organized within Delicious State Islamic Family, and each state in Malaysia has one rule individually. Selangor State has Delicious Constitution Selangor State Islamic Family of 2003 which regulates all matter from commerce until to right guard child. Matter This has give power to Sharia Court for finish problem family such as marriage, divorce, divorce, fasakh and so on. In the Delicious Constitution Selangor State Islamic Family in 2003 has been set all type matter about divorce that can found in section V, namely about dissolution marriage.

##### **3) Dutch**

Regulation (EC) No 2201/2003 (or: Brussels II bis) has applicable for all countries in the European Union since March 1, 2015. Regulation This arrange jurisdiction, recognition and enforcement decision in problem marriage and responsibility answer parents. EU rules apply for divorce, separation official, and cancellation wedding. Within the EU, application divorce can have filed in the country where the court own jurisdiction.

As for the comparison regulation about divorced lawsuits in several countries are summarized in table following:

Table 1: Comparison Regulation Divorced sue In Some Countries

No	Singapore	Malaysia	Jordan	Dutch
1	Regulation about divorce in Singapore is regulated in the Administrative Muslim Law Act 1966 which was passed in August 1966 and is in effect effective in 1968	In Malaysia the law The Islamic family is organized within Delicious State Islamic Family, and each state in Malaysia has one rule individually.	Already applicable law family since 1917 based on The Hanafi school of thought established in the known Ottoman Empire with The Turkish Ottoman Law of Family Rigt 1917	On January 1, 2012, Book 10 of the Dutch Civil Code came into force. valid in the Netherlands. Book This load rule law civil international.
2	Form arranged divorce in regulation the are talak, taklik, fasakh, and khuluk, This in accordance with the listed in AMLA Singapore Chapter 3 Article 35 paragraph (2) letter b	The country of Malaysia in Delicious Constitution Selangor State Islamic Family 2003 stated in sexy 47: a husband or wife who wants do divorce should deliver application written to Court in the specified boring along with I in law	divorce in provisions of Articles 101 and 134 of Law No. 25 of 1977	For a wedding held on or after 29 January 2019, Regulation (EU) No. 2016/1103 will apply applicable. Regulations This arrange applicable laws and enforcement decision in problem regime treasure marriage.

## b.Reconstruction of Justice Values Regulation Divorced Sue Husband's Reason for Not Giving Living To Wife Based on Justice Values

Reconstruction desired value achieved in study This is that regulation to divorce with reason husband No give living to the former wife Not yet based on justice now based on mark justice.

## c.Reconstruction of Regulatory Norms Divorced Sue Husband's Reason for Not Giving Living To Wife Based on Justice Values

One obligation husband to his wife is give living to his family, starting from order to husband For to support family in accordance with his ability. The obligation that must be filled by husband is responsible answer fully fulfil need family (Enzizar, 2014: 116).

Table 2: Regulation Divorced Sue Husband's Reason for Not Giving Living to Wife Based on Justice Values

No.	Construction	Weakness	Reconstruction
1	Law Number 16 of 2019 Concerning Amendments to Law Number 1 of 1974 Concerning Marriage Article 7 Paragraph 1 Marriage is only permitted if the man and woman reach the age of 19 (nineteen) years.	In substance the regulations are not yet clear	Reconstruction of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage Article 7 Paragraph 1, by adding the sentence and the man has the ability and commitment to provide physical and spiritual sustenance, so that it reads: Article 7 Paragraph 1 Marriage is only permitted if the man and woman reach the age of 19 (nineteen) years, and the man has the ability and commitment to provide physical and spiritual sustenance
2	Circular letter Supreme Court Number 1 of 2022 Religious Chamber Legal Formulation Marriage Law Letter b number 1 Case divorce with reason husband and wife not implementing obligation living born and/ or inner, only can granted If proven husband and wife not implementing his obligation after a minimum of 12 ( twelve ) months.	Not based on mark justice	Reconstruction of the Circular Letter Supreme Court Number 1 of 2022 Religious Chamber Legal Formulation Marriage Law, which must adjust Sighat ta'lik Talak, so that in Letter b number 1 changes sound article, so that reads: Marriage Law Letter b number 1 Case divorce with reason husband and wife No carry out obligation living born and/ or inner, only can granted If proven husband and wife not implementing his obligation after a minimum of 3 ( three ) months, based on mark justice.

## Conclusion

Regulation Divorced Sue Husband's Reason for Not Giving Living To Wife Not yet based on mark justice that regulations that govern marriage Still Not yet clear and pro - cultural patriarchy which results in decision divorce easy talaq granted, even though it became trigger the crack House ladder is husband, with without There is change make a loss or compensation to wife. Weakness regulation divorced sue reason husband No give living to wife moment This consists of from weakness aspect substance law, structure law and weaknesses aspect culture law. Weaknesses aspect substance law is Not yet There is substance law which is legitimate protect right wife post divorced husband consequence error husband who has not fair. In the context of structure law, found that structure not enough take role in realization realize justiceas objective made by him law. In the context of culture law, not yet There is law that can legally accommodate interest. Article 149 KHI provides protection to a wife who is divorced by her husband will but No give protection to divorced wife husband consequence error husband, so that in condition the party wife disadvantaged. Weakness aspect structure law are the officials below shade Religious Courts are passive. The judges and their staff only stuck on text law in a way editorial. They are very rare do reinterpretation repeat to Language Articles. Articles in Constitution as if become something that has been frozen and not may interpreted. The judge only work and decide case as Language chapter in Constitution without brave do interpretation repeat. The reasons behind it behind emergence fact law without dug up in a way deep in order to realize a just decision. This is where proof from weakness law in Indonesia, especially in the realm of Religious Court is low judge's creativity for do excavation living law in society or at least in decide case when required through ijtihad method. Weaknesses aspect culture law that is awareness law people in Indonesia tend to low. Plus Again with the amount practice manipulation law so that public see formal law as formality merely. Culture in Indonesia is not culture single. Reconstruction regulation divorced sue with reason husband No give living to wife based on mark justice consists of from reconstruction values and norm reconstruction. Reconstruction desired value achieved in study This is that regulation to divorce with reason husband No give living to the former wife Not yet based on justice now based on mark justice. Reconstruction of regulatory norms divorced sue with reason husband No give living to wife based on mark justice in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 Concerning Marriage Article 7 Paragraph 1 and the Circular Supreme Court Number 1 of 2022 Formulation of the Religious Chamber Law on Marriage Law, which must adjust Sighat divorce divorce.

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Urbs antīqua fuit, Tyrīū tenuēre colōnī, Karthāgō, Ītaliā contrā Tiberīnaque longē ōstia, dīves opum studiīsque asperīma bellī, quam lūnō fertur terrīs magis omnibus ūnam.

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