

## ABSTRAK

**Ahmad Jumaidi.** NIM. 210211050121, Pemberian 1/3 Gaji PNS untuk Mantan Istri Perspektif Hukum Positif dan *Maqashid Syariah* (Analisis Putusan Nomor 15/Pdt.G/2022/PA.Tte), Pembimbing I Dr. H. A. Sukris Sarmadi, M.H., dan Pembimbing II Dr. H. Nuril Khasyi'in, Lc., M.Ag., pada program studi Hukum Keluarga Pasca Sarjana UIN Antasari Banjarmasin, 2024

**Kata Kunci :** Putusan, Pemberian Gaji PNS untuk Mantan Istri, *maqashid syari'ah*

Pembebanan kewajiban bagi suami, seorang Pegawai Negeri Sipil (PNS) yang tertuang dalam Peraturan Pemerintah No. 10 tahun 1983 jo PP No. 45 tahun 1990 untuk memberikan sebagian dari gajinya kepada mantan istri menimbulkan pertanyaan mengenai pemahaman hak-hak istri dalam perceraian menurut norma Hukum Islam. Ketidaksesuaian antara putusan pengadilan agama dengan norma Hukum Islam menyoroti ketegangan antara dua sistem hukum yang mendasarinya. Dalam Putusan cerai gugat Nomor 15/Pdt.G/2022/PA.Tte. mengingat status Pegawai Negeri Sipil (PNS) suami, hakim merujuk pada Peraturan Pemerintah No. 10 tahun 1983 jo PP No. 45 tahun 1990. Dalam putusannya, hakim menetapkan kewajiban bagi suami, termasuk nafkah iddah dan mut'ah, sebesar 1/3 dari gaji yang diterimanya untuk menafkahi mantan istrinya, meskipun Penggugat tidak mengajukan tuntutan terkait nafkah dan pembagian 1/3 gaji mantan suaminya. Putusan ini menarik untuk diteliti karena dianggap bertentangan dengan norma Hukum Islam yang ada dalam amar putusan hakim. Hakim menetapkan bahwa suami yang dihadapkan pada cerai gugat harus memberikan 1/3 dari pendapatannya kepada istri, tanpa mempertimbangkan norma Hukum Islam yang mengatur hak istri setelah perceraian.

Penelitian ini bertujuan untuk mengetahui putusan Nomor 15/Pdt.G/2022/PA.Tte. yang memberikan 1/3 dari gaji PNS mantan suami kepada mantan istri dan menganalisis pemberian 1/3 gaji PNS untuk mantan isteri menurut perspektif hukum positif dan hukum islam khususnya dari sudut pandang *maqashid syariah*.

Penelitian ini bersifat yuridis normatif dengan mengadopsi pendekatan kasus (*case approach*) dan pendekatan analitis (*analitical approach*). Objek dalam penelitian ini adalah pertimbangan Hakim yang memberikan 1/3 dari gaji PNS mantan suami kepada mantan istri yang dianalisis dalam perspektif hukum Islam, hukum positif dan *maqashid syariah*.

Dalam gugatan cerai Nomor 15/Pdt.G/2022/PA.Tte, Penggugat meminta pengadilan menjatuhkan talak satu *ba'in shughra*. Putusan pengadilan, meskipun merujuk pada Peraturan Pemerintah No. 10 Tahun 1983 dan No. 45 Tahun 1990 untuk pemberian 1/3 gaji PNS, dianggap tidak sejalan dengan hukum Islam, tidak sesuai prinsip keadilan masyarakat, dan bertentangan dengan *maqashid syariah*, terutama dalam aspek pemeliharaan agama dan harta.

## ABSTRACT

**Ahmad Jumaidi.** NIM 210211050121, The Provision of 1/3 Civil Servant Salary for Former Wives: Perspectives of Positive Law, and Maqashid Sharia (Analysis of Decision Number 15/Pdt.G/2022/PA.Tte). Supervisor I Dr. H. A. Sukris Sarmadi, M.H., and Supervisor II Dr. H. Nuril Khasyi'in, Lc., M.Ag., in the postgraduate Family Law program at UIN Antasari Banjarmasin, 2024

**Keywords:** Decree, Civil Servant Salary for Former Wives, Maqashid Sharia

The imposition of obligations on a husband, a Civil Servant (PNS) as stipulated in Government Regulation No. 10 of 1983 conjunction with Government Regulation No. 45 of 1990, to allocate a portion of his salary to his former wife raises questions regarding the understanding of wives' rights in the context of divorce according to Islamic Law norms. The inconsistency between the decree of religious courts and Islamic Law norms highlights the tension between the two underlying legal systems. In the divorce decree Number 15/Pdt.G/2022/PA.Tte., considering the husband's status as a Civil Servant (PNS), the judge referred to Government Regulation No. 10 of 1983 conjunction with Government Regulation No. 45 of 1990. In the ruling, the judge established obligations for the husband, including iddah and mut'ah maintenance, amounting to 1/3 of his received salary to support his former wife, even though the Plaintiff did not file claims regarding maintenance and the division of 1/3 of her former husband's salary. This decree is intriguing for examination as it is deemed contradictory to the existing Islamic Law norms within the judge's decree. The judge determined that a husband faced with a divorce claim must allocate 1/3 of his income to his wife, without considering Islamic Law norms governing the rights of wives after divorce.

This research aims to understand decree Number 15/Pdt.G/2022/PA.Tte, which grants 1/3 of the ex-husband's PNS salary to the former wife, and analyze the provision of 1/3 of the PNS salary for the former wife from the perspectives of positive law and Islamic law specifically from perspective of maqashid sharia.

This research is juridical normative, adopting a case approach and analytical approach. The object of this study is the considerations of the judge who granted 1/3 of the PNS ex-husband's salary to the former wife, analyzed from the perspectives positive law and maqashid sharia.

In the divorce decree Number 15/Pdt.G/2022/PA.Tte, the Plaintiff requested the court to grant Irrevocable divorce of minor degree (ba'in shughra). The court's verdict, although referring to Government Regulation No. 10 of 1983 and No. 45 of 1990 for the provision of 1/3 of the PNS salary, is considered not in line with Islamic law, contrary to the principles of justice in society, and conflicting with maqashid sharia, especially in aspects of religious and financial maintenance.