

The Rising Divorce Rate in Indonesia: A Socio-Legal Analysis of Islamic Family Law And Judicial Practices in The Religious Courts

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Abstract : *Indonesia has witnessed a persistent and alarming rise in divorce rates over the past decade, presenting a complex socio-legal challenge that intersects Islamic family law, state legislation, and judicial practice in the Religious Courts (Pengadilan Agama). This article undertakes a comprehensive socio-legal analysis of the factors driving this phenomenon, examining the normative legal framework governing marriage and divorce in Indonesia, the institutional role and limitations of the Religious Courts, the ineffectiveness of court-mandated mediation, gender dynamics in divorce petitions, and the broader socio-economic and cultural determinants of marital dissolution. Drawing on empirical data, judicial decisions, and a synthesis of recent scholarship, this article argues that the rising divorce rate in Indonesia is a multidimensional phenomenon that cannot be adequately explained by reference to any single cause. Rather, it reflects structural deficiencies in the legal system, socio-economic pressures, evolving gender consciousness, inadequate pre-marital preparation, and the persistent gap between the normative aspirations of Islamic family law and the realities of judicial practice. The article concludes with recommendations for legal reform and institutional strengthening aimed at reducing divorce rates while ensuring justice for all parties, particularly women and children.*

Keywords : *Divorce; Islamic Family Law; Religious Courts; Kompilasi Hukum Islam; Marriage Law*

Abstrak : *Indonesia telah menyaksikan peningkatan angka perceraian yang terus-menerus dan mengkhawatirkan dalam satu dekade terakhir, yang menghadirkan tantangan sosio-legal kompleks pada persinggungan antara hukum keluarga Islam, legislasi negara, dan praktik peradilan di Pengadilan Agama. Artikel ini melakukan analisis sosio-legal yang komprehensif terhadap faktor-faktor yang mendorong fenomena tersebut, dengan menelaah kerangka hukum normatif yang mengatur perkawinan dan perceraian di Indonesia, peran serta keterbatasan institusional Pengadilan Agama, ketidakefektifan mediasi yang*



diwajibkan oleh pengadilan, dinamika gender dalam permohonan perceraian, serta determinan sosial-ekonomi dan kultural yang lebih luas dari pembubaran perkawinan. Dengan bertumpu pada data empiris, putusan-putusan pengadilan, dan sintesis literatur mutakhir, artikel ini berpendapat bahwa peningkatan angka perceraian di Indonesia merupakan fenomena multidimensional yang tidak dapat dijelaskan secara memadai dengan merujuk pada satu penyebab tunggal. Sebaliknya, fenomena tersebut mencerminkan kelemahan struktural dalam sistem hukum, tekanan sosial-ekonomi, berkembangnya kesadaran gender, kurangnya persiapan pra-nikah, serta kesenjangan yang terus berlangsung antara cita-cita normatif hukum keluarga Islam dan realitas praktik peradilan. Artikel ini diakhiri dengan rekomendasi reformasi hukum dan penguatan kelembagaan yang bertujuan menekan angka perceraian sekaligus menjamin keadilan bagi seluruh pihak, khususnya perempuan dan anak-anak.

Kata kunci : Perceraian; Hukum Keluarga Islam; Pengadilan Agama; Kompilasi Hukum Islam; Undang-Undang Perkawinan

Introduction

The institution of marriage occupies a central position within Islamic law and the social structure of Indonesian society. In classical Islamic legal literature, divorce (ṭalāq) is normatively regarded as a permitted act yet highly discouraged, often depicted as “the most disliked halal act in the sight of Allah.”¹ This ideal normative tension becomes increasingly conspicuous in contemporary Indonesia. As the country with the largest Muslim population in the world, Indonesia has experienced a significant and sustained rise in divorce cases over the past decade, indicating not only complex social dynamics but also an important academic problem within the study of Islamic family law, especially concerning the relationship between legal norms, judicial practice, and social change.²

According to official statistical data published by Badan Pusat Statistik, the cumulative number of divorce cases in Indonesia over the five-year period from 2021 to 2025 reached 2,260,517 cases. In annual terms, 447.743 cases were recorded in 2021, followed by a sharp increase to 516.344 cases in 2022. The figure remained relatively stable at approximately 448,126 cases in 2022, before declining to 463.654 cases in 2023 and further decreasing to 394.608 cases in 2024. However, in 2025, the number of divorce cases rose again to 438.168. This pattern indicates a significant surge during the early phase of the COVID-19 pandemic, followed by a gradual downward trend in the post-peak period, notwithstanding a subsequent uptick in the most recent year.²

The academic significance of this research lies in the need to understand the increase in divorce rates as a multidimensional socio-legal phenomenon. According to data compiled by the Indonesian Central Bureau of Statistics

¹ Achmad Thorik et al., “Dinamika Perceraian di Kalangan Keluarga Muslim Indonesia Dalam Perspektif Sosiologi Hukum Islam,” *Millatuna: Jurnal Studi Islam*, Vol. 2, No. 04, (2025): 93–108

² <https://www.bps.go.id/id/statistics-table/3/YVdoU1IwVmITM2h4YzFoV1psWkViRXhqTlZwRFVUMDkjMw==/jumlah-perceraian-menurut-provinsi-dan-faktor-penyebab-perceraian-perkara---2024.html?year=2020>

(Badan Pusat Statistik, BPS), Indonesia recorded 438,168 divorce cases in 2025, with disputes and persistent conflict being the most cited causes, followed by economic problems and domestic violence. These data suggest that divorce cannot be comprehended merely as an individual issue but rather as a manifestation of the interaction between legal, economic, social, and cultural factors.³

Religious Courts (*Pengadilan Agama*), as one of the key executors of judicial authority in Indonesia, play a crucial role in resolving Islamic family law disputes. These courts handle millions of cases annually, with divorce matters constituting a dominant share of their caseload. In this context, Religious Courts function not only as implementers of legal norms but also as arenas where these norms are negotiated and enacted in practice. Therefore, analyzing judicial practices is essential to understand the gap between normative legal frameworks and empirical realities in divorce adjudication.⁴

Although the government and judicial institutions continue to endeavor to reduce divorce rates, statistical data indicate that the rate of divorce in Indonesia rose again in 2025. The ineffectiveness of mediation within the Religious Courts, where success rates in some jurisdictions reach only 0.45%, underscores the urgent need for institutional reform and the development of more effective dispute resolution mechanisms in divorce cases. Furthermore, the gendered dimension of the divorce crisis demands serious attention. The high incidence of divorces initiated by wives, coupled with the courts' failure to adequately safeguard children's rights during divorce proceedings, reflects profound inequalities within the legal framework and judicial practices, necessitating systemic reform. The urgency of this research is further reinforced by the broader context of legal and social change in Indonesia.⁵

Studies on divorce in Indonesia have generally examined its causal factors, the Islamic family law framework, the protection of post-divorce rights, and dispute-resolution practices in the Religious Courts as largely separate issues.⁶

³ *Ibid.*

⁴ Hariyanto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy," *Ahkam Jurnal Ilmu Syariah*, vol. 22, no. 1, (2022): 145–147; Mark Cammack, Lawrence A. Young, and Tim B. Heaton, "Legislating Social Change in an Islamic Society: Indonesia's Marriage Law," *The American Journal of Comparative Law*, vol. 44, no. 1, (1996): 45–47; Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*, Amsterdam: Amsterdam University Press, (2010): 112–115.

⁵ Djawas *et al.*, "The Government's Role in Decreasing Divorce Rates in Indonesia: The Case of Aceh and South Sulawesi," *Ahkam Jurnal Ilmu Syariah*, vol. 21, no. 1, (2021): 170–174; Mun'im *et al.*, "Revisioning Official Islam in Indonesia: The Role of Women Ulama Congress in Reproducing Female Authority in Islamic Law," *Ahkam Jurnal Ilmu Syariah*, vol. 24, no. 1, (2024): 38–41.

⁶ Durotun Nafisah, Nasrudin, Ahmad Rezy Meidina, & Muhammad Fuad Zain, "Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 8, No. 2 (2024): 849–854; Naskur Bilalu, Ridwan Jamal, Nurlaila Harun, & Syahrul Mubarak Subeitan, "Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 6, No. 2 (2022): 517–518 dan 527–534; Fikri, Muhammad Ali Rusdi Bedong, Muhyiddin Salim, Salman Abdul Muthalib, & Ali Abubakar, "Transformation of Maqāṣid Shari'ah in Divorce Mediation in Religious Courts: Revitalization of the Bugis-Mandar Customs, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 7, No. 1 (2023): 438–446; Rahmawati, Budiman, Putri Ananda Saka, Noerhoneydayatie binti Abdul Manaf, &

Some studies focus on socio-economic factors and domestic conflict, while others examine the Marriage Law, the Compilation of Islamic Law, legal grounds for divorce, mediation, and the protection of women and children.⁷ Nevertheless, the existing literature has yet to establish a comprehensive connection between the rising divorce rate, the prevailing normative framework, adjudicative practices within the Religious Courts, the effectiveness of government policies, and the need for legal and institutional reform.⁸ This study addresses that gap through a multidimensional socio-legal approach that conceptualizes divorce as both a legal and social phenomenon shaped by the interaction among religious norms, state law, socio-economic transformation, judicial practice, and public policy.

The urgency of this study lies in the far-reaching consequences of divorce for family resilience, women's economic vulnerability, the fulfilment of maintenance obligations, child-rearing arrangements, and the protection of post-divorce rights.⁹ The Religious Courts occupy a central position in interpreting the legal grounds for divorce, conducting mediation, adjudicating cases, and determining the legal consequences for the parties and their children, while government policies must be critically evaluated in terms of both prevention and protection.¹⁰ Accordingly, this article examines the normative framework of Islamic family law, the empirical dimensions and causal factors of divorce, the role of the Religious Courts, governmental policy responses, and the need for legal reform and institutional strengthening. The principal research question is therefore formulated as follows: How do Islamic family law and national law regulate divorce, what factors have contributed to its increasing incidence, how have the Religious Courts and the government responded to this phenomenon, and what reforms are required to establish a divorce adjudication system that is more equitable, responsive, and effective?

Sunuwati, "Dis-implementation of the Islamic Family Law in Fulfilling the Rights of Ex-Wives After Divorce in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 9, No. 1 (2025): 552–555.

⁷ Abdullah, Nurhayati, Fadli Andi Natsif, Hasbi Siddik, & Fathurrahman, "The Impact of Theological Interpretations on Divorces within Muslim Families in Makassar City, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 8, No. 1 (2024): 339–342; Durotun Nafisah, Nasrudin, Ahmad Rezy Meidina, & Muhammad Fuad Zain, *Op. Cit.*: 849–854; Asni & Muhammad Iqbal, "Women Judging Women: Gender Sensitivity in the Decisions of Divorce Cases of Indonesian Religious Courts," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial*, Vol. 20, No. 2 (2025): 588–589 dan 595–607.

⁸ Ramdani Wahyu Sururie, Mohammad Athoillah, & Muhammad Iqbal Zia Ulhaq, "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 7, No. 2 (2023): 734–759; Asni & Muhammad Iqbal, *Op. Cit.*: 588–607.

⁹ Ramdani Wahyu Sururie, Mohammad Athoillah, & Muhammad Iqbal Zia Ulhaq, "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 7, No. 2 (2023): 734–759;

¹⁰ Fikri, Muhammad Ali Rusdi Bedong, Muhyiddin Salim, Salman Abdul Muthalib, & Ali Abubakar, *Op. Cit.*: 438–446; Asni & Muhammad Iqbal, "Women Judging Women: Gender Sensitivity in the Decisions of Divorce Cases of Indonesian Religious Courts," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial*, Vol. 20, No. 2 (2025): 588–589 dan 595–607; Ramdani Wahyu Sururie, Mohammad Athoillah, & Muhammad Iqbal Zia Ulhaq, "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 7, No. 2 (2023): 734–759.

Methods

The most appropriate research method for a study entitled *The Rising Divorce Rate in Indonesia: A Socio-Legal Analysis of Islamic Family Law and Judicial Practices in the Religious Courts* is a socio-legal research method employing a combined normative and empirical approach. The normative approach is utilized to examine the legal framework governing divorce within Islamic family law in Indonesia, including statutory regulations, jurisprudence, and classical fiqh doctrines that constitute the conceptual foundation of marriage and divorce. Meanwhile, the empirical approach is directed toward analyzing social realities and judicial practices within the Religious Courts, drawing upon official statistical data published by Badan Pusat Statistik as well as case data from judicial institutions under the authority of the Mahkamah Agung Republik Indonesia. This method may be further enriched through qualitative data collection techniques, such as in-depth interviews with judges, mediators, and litigants, as well as documentary analysis of court decisions to identify patterns of legal reasoning and mediation practices. Accordingly, the socio-legal approach enables the researcher to examine not only “law in the books” but also “law in action,” thereby revealing the gap between legal norms and their implementation within the broader socio-economic and cultural dynamics of Indonesian Muslim society, particularly in explaining the phenomenon of rising divorce rates in a comprehensive and multidimensional manner.

Result And Discussion

The Normative Legal Framework: Islamic Family Law in Indonesia

At the philosophical level, Indonesian marriage law is grounded in Pancasila’s principle of Belief in the One and Only God and conceives marriage as a physical and spiritual covenant directed toward establishing a happy and enduring family. Constitutionally, Article 28B(1) of the 1945 Constitution guarantees the right to establish a family and procreate through lawful marriage, while Article 29 affirms the religious foundation of the state and protects the religious freedom of every person. Law No. 1 of 1974 on Marriage, as amended, consequently combines individual consent, family welfare, religious validity, and state protection rather than construing marriage as a purely private contract. This philosophical and constitutional synthesis explains why the state simultaneously respects religious norms and subjects marriage and divorce to public regulation and judicial supervision.¹¹

Against this philosophical foundation, Islamic family law in Indonesia operates through legal pluralism rather than through a single and fully integrated code. The Marriage Law establishes a national framework applicable across religious communities, whereas Muslim family relations are further governed by the Compilation of Islamic Law, classical Islamic jurisprudence, judicial decisions, and, where compatible, customary norms.

¹¹ Theresia Dyah Wirastri & Stijn Cornelis van Huis, “The State of Indonesia’s Marriage Law: 50 Years of Statutory and Judicial Reforms,” *AHKAM: Jurnal Ilmu Syariah*, Vol. 24, No. 2 (2024): 220; see also the Constitution of the Republic of Indonesia of 1945, Articles 28B(1) and 29.

This layered structure accommodates religious identity and Indonesia's social diversity, but it also creates tensions among statutory hierarchy, doctrinal plurality, and locally embedded practices. Consequently, the coherence of divorce law depends not only upon legislation but also upon how Religious Court judges reconcile these overlapping normative orders in concrete cases.¹²

Within this plural legal structure, the Compilation of Islamic Law occupies a distinctive quasi-codified position in the governance of Muslim family relations. Because it was introduced through Presidential Instruction No. 1 of 1991 rather than enacted as an Act of Parliament, its formal status within the hierarchy of legislation has remained the subject of continuing legal debate. Nevertheless, Religious Court judges routinely apply its provisions as authoritative substantive norms while interpreting them in conjunction with the Marriage Law, Supreme Court jurisprudence, circular letters, and contemporary principles such as public benefit, gender equality, and the protection of women and children. The KHI thus possesses considerable practical authority as authoritative substantive norms while interpreting them in conjunction with the Marriage Law, Supreme Court jurisprudence, circular letters, and contemporary principles suchmal position continues to expose the system to questions concerning legality, legal hierarchy, and the appropriate mechanism for family-law reform.¹³

The practical consequence of this normative framework is the principle that a legally recognized divorce must be pronounced or decided before a competent court. Article 39 of the Marriage Law requires judicial proceedings, an attempt at reconciliation, and sufficient legal grounds demonstrating that the spouses can no longer live harmoniously as husband and wife. For Muslims, this rule transformed divorce from a potentially unilateral private act into a state-supervised procedure in which a husband submits a petition for *ceraai talak*, whereas a wife initiates a lawsuit for **ceraure* evidence, legal certainty, official registration, and protection of the rights and interests of the spouses and their children.¹⁴

The requirement of judicial divorce is closely connected to the principle of making divorce difficult, although this principle must be understood as procedural caution rather than an absolute prohibition against marital dissolution. Courts are expected to examine the legal grounds carefully, pursue reconciliation, and prevent impulsive termination because divorce should remain a final remedy after reasonable efforts to restore the marriage have failed. Nevertheless, making divorce difficult cannot justify trapping a spouse in domestic violence, severe physical or psychological harm, abandonment, or a relationship that has irretrievably broken down, nor may it impose disproportionate procedural and financial burdens upon justice seekers. The legitimate limit of this principle is theremarriage would undermine safety, human dignity, substantive justice, or the very objectives that marriage is intended to protect under Islamic law.¹⁵

¹² *Ibid.*, 215–232

¹³ *Ibid.*, 216–217.

¹⁴ *Ibid.*, 220–221; Ali Trigiyatno & Sutrisno, "Dharar as a Reason for Divorce Lawsuit in Fiqh and Legislation of Some Muslim Countries: Study on Indonesia, Bahrain, Sudan, Qatar, and Morocco," *Al-Istinbath: Jurnal Hukum Islam*, Vol. 7, No. 1 (2022): 211.

¹⁵ Ramdani Wahyu Sururie, Mohammad Athoillah & Muhammad Iqbal Zia Ulhaq, "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia,"

The legally prescribed grounds for divorce operationalize the balance between the preservation of marriage and access to judicial relief. Article 19 of Government Regulation No. 9 of 1975 recognizes adultery or an incurable destructive addiction, abandonment for two consecutive years, imprisonment for five years or more, cruelty or severe mistreatment, disability or illness preventing the performance of marital duties, and continuous disputes that eliminate any prospect of harmonious cohabitation. Article 116 of the KHI substantially reproduces these grounds while adding the violation of a *ta'liq talak* and apostasy that causes marital discord. Although this enumeration promotes predictability, a harm-sensitive interpretation, and coercive forms of *dharar* may not always fit neatly within a restrictive interpretation of cruelty or severe mistreatment.¹⁶

Once a divorce petition or lawsuit has been registered, the Religious Courts possess jurisdiction over marriage and divorce disputes between Muslim parties and must integrate adjudication with efforts to achieve reconciliation. The judicial obligation to seek peace is complemented by court-annexed mediation under Article 130 of the HIR, Article 154 of the RBg, and Supreme Court Regulation No. 1 of 2016, which ordinarily requires the parties to undergo mediation with the assistance of a neutral mediator before the merits are fully examined. Mediation may result in complete reconciliation, a partial agreement, or failure, but it should not be reduced to a ceremonial procedure whose success is measured solely by whether the parties remain married. In a rights-oriented model, mediation should also assist the parties so that an unavoidable divorce can be concluded fairly and with the least possible conflict.¹⁷

Despite these procedural safeguards, Indonesian Muslim divorce law remains fragmented across the Marriage Law, Government Regulation No. 9 of 1975, the KHI, the Religious Courts legislation, procedural regulations, Supreme Court circular letters, and evolving judicial precedents. Because comprehensive statutory reform following the adoption of the KHI has encountered political and ideological obstacles, the judiciary has increasingly produced non-statutory reform through interpretation, constitutional review, jurisprudence, and chamber guidelines, particularly to strengthen the protection of women and children. This adaptive judicial role is valuable, but it may also create inconsistent standards when the hierarchy, binding force, and relationship among the relevant legal instruments remain unclear or when court decisions are difficult to enforce. Harmonization is therefore required to

Samarah: Jurnal Hukum Keluarga dan Hukum Islam, Vol. 7, No. 2 (2023): 750–751; Ali Trigiyatno & Sutrisno, *Op. Cit.*, 218–219.

¹⁶ Ali Trigiyatno & Sutrisno, *Op. Cit.*, 218–219; Durotun Nafisah, Nasrudin, Ahmad Rezy Meidina & Muhammad Fuad Zain, “Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 8, No. 2 (2024): 854.

¹⁷ Fikri Fikri, Muhammad Ali Rusdi Bedong, Muhyiddin Salim, Salman Abdul Muthalib & Ali Abubakar, “Transformation of Maqāṣid Shari’ah in Divorce Mediation in Religious Courts: Revitalization of the Bugis-Mandar Customs, Indonesia,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 7, No. 1 (2023): 438, 441, and 445; Theresia Dyah Wirastri & Stijn Cornelis van Huis, *Op. Cit.*, 220–221.

integrateable post-divorce rights while preserving legitimate Islamic values and constitutional guarantees.¹⁸

The normative framework is highly relevant to understanding the rising divorce rate, but it should not be treated as a simple or independent cause of that increase. By requiring court-based divorce, the law channels marital breakdown into official judicial proceedings and may make disputes, particularly claims initiated by wives, more legally visible; empirical studies nevertheless identify educational limitations, economic pressures, differing religious understandings, inadequate access to health services, unsupportive social environments, and persistent marital conflict as major contributing factors. The growing number of judicial divorce decisions may therefore indicate not only declining family resilience but also increasing recourse to lawful remedies when violence, harm, abandonment, or irreconcilable conflict renders reconciliation unrealistic. A socio-legal response must consequently combine consistent adjudication and meaningful mediation with upstream intervention of the post-divorce rights of women and children.¹⁹

The Rising Divorce Rate: Empirical Dimensions and Causal Factors

The rising incidence of divorce across various jurisdictions, including Indonesia, reveals a complex set of empirical dynamics that cannot be reduced to any single causal factor. Empirically, divorce trends demonstrate a transformation in the structure of familial relationships resulting from the increasingly rapid social, economic, and cultural changes occurring within modern societies. Recent studies have emphasized that divorce is not merely a private phenomenon, but also a reflection of the transformation of marital values, whereby the meaning of the family institution is continually renegotiated within the broader contexts of modernity and individualization. This phenomenon also reflects heightened legal awareness and a growing commitment to gender equality, which encourage individuals—particularly women—to pursue legal remedies in order to preserve their dignity and personal well-being.²⁰

From a causal perspective, numerous empirical studies have identified economic factors as persistent principal determinants of high divorce rates. Economic pressure, financial instability, and the repercussions of global economic crises have been shown to contribute significantly to marital conflict that ultimately culminates in divorce.²¹ Other factors, including infidelity, domestic violence, communication breakdown, and unequal distributions of domestic responsibilities, likewise constitute dominant causes that intensify

¹⁸ Rahmawati, Budiman, Putri Ananda Saka, Noerhoneydayatie binti Abdul Manaf & Sunuwati, "Dis-implementation of the Islamic Family Law in Fulfilling the Rights of Ex-Wives After Divorce in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 9, No. 1 (2025): 552–554.

¹⁹ Durotun Nafisah, Nasrudin, Ahmad Rezy Meidina & Muhammad Fuad Zain, *Op. Cit.*, 846, 849, and 854; Ramdani Wahyu Sururie, Mohammad Athoillah & Muhammad Iqbal Zia Ulhaq, *Op. Cit.*, 734–751; Rahmawati *et al*, *Op. Cit.*, 552–554.

²⁰ Amelinda Devina Isdiany & Arief Sudrajat, "An Analysis of the Meaning of Divorce Lawsuits by High-Income Women," *Socius: Jurnal Penelitian Ilmu Sosial*, Vol. 3, No. 6, (2026) : 526–528.

²¹ Muhammad Kadafi *et al.*, "Legal Analysis of the Increase in Divorce Cases in Indonesia with Global Economic Impact," *Jurnal Hukum Malahayati*, Vol. 6, No. 1, (2025) : 128–129.

familial conflict.²² These circumstances are further compounded by psychological factors, such as mental preparedness, the level of personal maturity and soundness of judgment, and the capacity to make appropriate decisions when contemplating the dissolution of a marriage.²³ In the Indonesian context, persistent disputes and prolonged conflict between spouses have been recorded as the most prevalent causes of divorce, followed by economic hardship and the abandonment of one spouse by the other.²⁴ These findings demonstrate that divorce results from the simultaneous accumulation of structural and interpersonal problems.

Moreover, the empirical dimensions of divorce reveal changing patterns of gender relations and shifting expectations regarding the institution of marriage. Women's increasing economic independence, for example, strengthens their bargaining position within marital relationships, with the result that divorce is no longer regarded solely as a measure of last resort, but may also represent an expression of social rationality and resistance to relational injustice.²⁵ At the same time, modernization and the growing prominence of individualistic values have contributed to a shift in the orientation of marriage from an institution founded primarily upon obligations toward one increasingly centered on personal fulfillment and emotional well-being.²⁶ Accordingly, the rising divorce rate must be understood as a multidimensional phenomenon reflecting the interaction of economic, social, cultural, and legal factors within contemporary society.

The Role of the Religious Courts in Divorce Adjudication

The Religious Courts constitute the principal institutional forum for the adjudication of divorce cases in Indonesia, with their jurisdiction firmly grounded in Law Number 7 of 1989 as subsequently amended. These courts are vested with authority to examine, adjudicate, and resolve disputes among Muslims in matters of marriage, inheritance, wills, grants, waqf, zakat, and Islamic economics. Structurally, the Religious Courts operate within a hierarchical judicial system consisting of first-instance courts at the district and municipal levels, Religious High Courts at the provincial level, and the Supreme Court as the apex judicial authority. Since the enactment of the 1989 Law, the institutional position of the Religious Courts has been significantly strengthened, removing their prior subordination to the general courts. Subsequent legislative amendments in 2006 and 2009 further expanded their jurisdiction, including into the domain of Islamic economics, while in Aceh,

²² Sadu & Lahaji, "The Phenomenon of Divorce and Its Impact on Family Structure," *Jurnal Pendidikan Mandala*, Vol. 10, No. 2, (2025): 387

²³ Muhammad Irfanudin Kurniawan & Adi Nur Rohman, Reasons For Divorce in The Compilation of Islamic Law: An Overview of Islamic Legal Psychology. *Krtha Bhayangkara*, Vol. 17, No. 3 (2023) : 495-504

²⁴ A. Kusmardani *et al.*, "The Dynamics of Divorce in Indonesian Muslim Families," *Daengku: Journal of Humanities and Social Sciences Innovation*, Vol. 4, No. 1, (2024) : 741

²⁵ Amelinda Devina Isdiany & Arief Sudrajat, *Op. Cit.*, 528-529

²⁶ M. Sa'adah, "From Financial to Moral-Ethical Concerns: Changing Pattern of Divorce Reasons at the Religious Court," *Al-Hukama Journal*, Vol. 14, No. 1, (2024): 45-62.

their functions are exercised by the Shari'a Courts (Mahkamah Syar'iyah), which also possess jurisdiction over Islamic criminal law (jinayat).²⁷

Despite these institutional advancements, the Religious Courts continue to encounter substantial challenges, particularly in terms of human resources, infrastructure, and public trust. The high volume of family law cases, especially divorce disputes, imposes considerable pressure on judicial capacity and affects the quality of judicial decision-making. Empirical studies indicate that public confidence in the Religious Courts remains uneven, particularly in cases involving economic and family disputes. Moreover, the effectiveness of dispute resolution mechanisms, including mediation, has been questioned due to their limited practical success. In adjudicating divorce cases, judges frequently navigate a complex interaction between formal legal norms, judicial discretion, and local cultural values. This dynamic reflects the operation of legal pluralism, wherein state law, Islamic law, and customary norms coexist and influence judicial outcomes.²⁸

Judicial discretion within the Religious Courts plays a critical role in addressing legal issues that are not explicitly regulated within statutory frameworks. In complex cases, such as those involving sexual orientation or atypical marital disputes, judges are often required to construct innovative legal reasoning to justify their decisions. This phenomenon illustrates the emergence of progressive law (*hukum progresif*), whereby judges prioritize substantive justice over strict adherence to formal legal provisions. For instance, in cases of marriage ratification (*isbat nikah*), courts have occasionally departed from formal prohibitions to uphold the broader principle of *maslahah* (public benefit). Such decisions exemplify judicial creativity in reconciling normative legal constraints with social realities. Consequently, the practice of adjudication in the Religious Courts reflects an ongoing tension between legal certainty, substantive justice, and evolving societal conditions.²⁹

1. The Grounds for Divorce in Judicial Practice

The grounds for divorce under Indonesian law are applied by Religious Court judges in a manner that reflects both formal legal norms and the socio-cultural realities of Muslim society. Among these grounds, "protracted disputes and conflicts" (*perselisihan yang terus menerus*) occupies a central

²⁷ Mahdi Syahbandir *et al.*, "State and Islamic Law: A Study of Legal Politics on Zakat as a Tax Deduction in Aceh," *Ahkam: Jurnal Ilmu Syariah* 22, no. 1 (2022): 45–47; Analiansyah and Abubakar, "Children Handling Procedure in Islamic Criminal Offense in Aceh," *Ahkam: Jurnal Ilmu Syariah* 21, no. 1 (2021): 63–65.

²⁸ Hariyanto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy," *Ahkam: Jurnal Ilmu Syariah* 22, no. 1 (2022): 88–90; Sri Turatmiyah *et al.*, *Op. Cit.*: 275–277; Karmawan, "Mediation in the Religious Courts of Indonesia," *Ahkam: Jurnal Ilmu Syariah* 20, no. 1 (2020): 12–14.

²⁹ Kholifatun Nur Mustofa, "Local Values and Judges' Legal Discretion in Islamic Court of Makassar: The Case of Dispensasi Nikah," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 56, no. 1 (2022): 120–122; Hikmah *et al.*, "Bisexual Orientation, Divorce and Islamic Law in Indonesia: Legal Standing and Arguments," *Ahkam: Jurnal Ilmu Syariah* 22, no. 1 (2022): 101–103; Muhammad Muhajir and Qurratul Uyun, "SEMA Waiver Number 3 of 2018 in the Case of Isbat for Polygamous Marriage," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 55, no. 2 (2021): 210–212; Feny Ramadhani Sonjaya, *et al.*, Family Dispute Resolution by Litigation: Between Litigation and Mediation Efforts as a Reconciliative Solution. *Krtha Bhayangkara*, Vol. 19 No. 2 (2025): 479–488.

position due to its broad and flexible interpretative scope. Judicial practice demonstrates an expansive understanding of this ground, encompassing not only overt conflicts but also “soft disputes” related to gender roles, self-esteem, and decision-making authority within marriage. This pragmatic judicial approach prioritizes the resolution of marital disharmony over the preservation of marriage, thereby effectively lowering the threshold for granting divorce. Furthermore, in cases involving novel or unregulated issues, such as bisexual orientation, judges employ creative legal reasoning grounded in analogical methods (*qiyās*) and general principles of Islamic law, highlighting the adaptive nature of judicial interpretation in contemporary contexts.¹

2. The Ineffectiveness of Court-Mandated Mediation

Mandatory mediation, introduced through Supreme Court Regulation Number 1 of 2016, represents a significant institutional effort to address rising divorce rates by integrating alternative dispute resolution into judicial proceedings. This policy requires all civil cases, including divorce cases in Religious Courts, to undergo mediation prior to litigation, reflecting both Islamic principles of reconciliation and the Indonesian tradition of deliberation (*musyawarah*). The normative foundation of mediation is deeply rooted in Qur’anic injunctions that prioritize reconciliation and arbitration before the dissolution of marriage. Moreover, mediated agreements, once ratified, carry binding legal force equivalent to judicial decisions, thereby incentivizing disputing parties to reach consensual settlements. In theory, mediation is expected to reduce court congestion and provide more satisfactory, non-adversarial outcomes for litigants.²

3. The Failure of Mediation in Practice

Despite its normative and institutional significance, mediation in divorce cases has proven largely ineffective in practice across Indonesian Religious Courts. Empirical findings consistently reveal extremely low success rates, indicating that mediation has not functioned as an effective mechanism for dispute resolution. This failure is attributable to multiple interrelated factors, including the deeply rooted nature of marital conflicts, the disproportionate ratio between mediators and caseloads, and the lack of genuine commitment from parties who often view mediation as a mere procedural formality. Additionally, structural constraints such as inadequate resources, limited facilities, and insufficient mediator professionalism further undermine the effectiveness of the process. The persistence of a low level of legal awareness among litigants also contributes to the inability of mediation to function as a meaningful avenue for reconciliation.³

4. Implications of Mediation Failure

The ineffectiveness of mediation has far-reaching implications for both the rising divorce rate and the institutional capacity of the Religious Courts in Indonesia. The continued prevalence of divorce cases can be partly attributed to the failure of mediation to resolve marital disputes at an early stage, thereby allowing cases to proceed to full litigation. This situation significantly increases the workload of the courts, resulting in case accumulation and placing considerable strain on judicial resources. The excessive caseload not only hampers the efficiency of the courts but also risks diminishing the quality

and consistency of judicial decision-making. Addressing these challenges requires comprehensive reforms, including the professionalization of mediators, enhancement of institutional support, improvement of legal awareness among litigants, and strengthening of the mediation framework. Without such systemic improvements, mediation will remain ineffective, and the Religious Courts will continue to face structural pressures from the high volume of divorce cases.⁴

Government Responses and Policy Interventions

1. Pre-Marital Courses

One of the primary policy responses to the rising divorce rate in Indonesia has been the introduction of mandatory pre-marital courses (*kursus pranikah*) for couples planning to marry.³⁰ The Directorate General of Islamic Community Guidance of the Ministry of Religion of the Republic of Indonesia has implemented a pre-marital course program aimed at providing knowledge and understanding to prospective brides and grooms. The program is designed to equip couples with the skills and knowledge necessary to build a successful marriage, including an understanding of their rights and obligations under Islamic law and Indonesian legislation.

Comparative research on pre-marital courses in Indonesia and Malaysia finds that there is no contradiction between the pre-marital course program and the principles of *maslahah* (public interest) and human rights.³¹ However, improvements and adjustments are still needed, including sufficient infrastructure, professional organization, the commitment of future brides and grooms, and adequate financial support. Malaysia similarly experiences problems related to marriage, including high divorce rates and domestic violence, and has implemented a pre-marital course program through the Malaysian Islamic Religious Office.

2. Other Government Initiatives

Beyond pre-marital courses, the government has implemented a range of other initiatives aimed at reducing divorce rates. Research on government responses to divorce in Aceh and South Sulawesi identifies several measures, including: preaching marriage sermons (*khutbah nikah*) to strengthen family bonds and prevent divorce; holding happy family contests (*kontes keluarga sakinah*); and designing marriage guidance modules for brides and grooms.³² These efforts, in the sociology of law context, represent the government's function and role in anticipating the increasing divorce rates and maintaining the stability of the social system.³³

The government has also sought to strengthen the legal framework for marriage and divorce through legislative reform. The amendment of the

³⁰ Faisal *et al.*, *Op. Cit.*, 45–48.

³¹ *Ibid.*, : 49–52; see also Kamarusdiana, K., Yusuf, B., Hakim, M. R., & Dahri, H., Pre-Marital Education: Concepts and Regulations in Indonesia and Malaysia. *Al-Ahkam*, Vol. 32, No. 1 (2022): 41–64.

³² Djawas *et al.*, "The Government's Role in Decreasing Divorce Rates in Indonesia: The Case of Aceh and South Sulawesi," *Ahkam Jurnal Ilmu Syariah*, vol. 21, no. 1, (2021) : 163–188

³³ *Ibid.*

minimum marriage age to 19 years for both men and women under Law Number 16 of 2019 is intended to reduce the incidence of early marriage and its associated risks, including higher divorce rates.³⁴ However, the effectiveness of this reform is limited by the continued availability of marriage dispensations from the Religious Courts, which allow underage couples to marry with judicial approval.³⁵

3. The Limitations of Government Responses

Despite these policy interventions, the divorce rate in Indonesia has continued to rise, suggesting that the government's responses have been insufficient to address the underlying causes of marital breakdown. The failure of mediation, the persistence of early marriage, the inadequacy of pre-marital preparation, and the structural limitations of the Religious Courts all point to the need for more comprehensive and sustained policy interventions.³⁶

The sociology of law perspective suggests that legal cases cannot be analyzed solely from a legal positivist standpoint but must also be analyzed sociologically, taking into account the social, economic, and cultural factors that shape legal behavior. The rising divorce rate in Indonesia is thus not merely a legal problem to be solved through legislative reform or judicial innovation, but a social problem that requires a multidimensional response addressing the root causes of marital breakdown.

The normative legal framework of Islamic family law in Indonesia demonstrates a hybrid legal construction that integrates classical fiqh with modern positive law. This finding can be analyzed through the theory of legal pluralism, which explains the coexistence of multiple legal systems within a single society. In the Indonesian context, legal pluralism is reflected in the interaction between Islamic law, customary law (*adat*), and state law. This integration is not only normative but also institutional, as evidenced by the existence of the Religious Courts. Therefore, this legal framework represents an effort to harmonize religious values with the demands of a modern state.³⁷

The process of Indonesianization of Islamic law identified in this study can be interpreted as a form of context-based legal transformation. This aligns with Eugen Ehrlich's theory of the living law, which emphasizes that law develops from the social practices of society. The codification of Islamic law into the Compilation of Islamic Law (KHI) illustrates that law is not static but adaptive to social needs. This adaptation also reflects a socio-legal approach in the formation of national law. Accordingly, Islamic family law in Indonesia can be

³⁴ Ahmad Ropei *et al.*, "Rethinking the Minimum Age of Marriage Law in Indonesia: Insights from Muhammad 'Ābid al-Jābirī's Epistemology," *Asy-Syir'ah Jurnal Ilmu Syari'ah dan Hukum*, vol. 56, no. 2, (2022), : 245–247.

³⁵ *Ibid.*

³⁶ Faisal *et al.*, "Pre-Marriage Course in Indonesia and Malaysia," *Ahkam Jurnal Ilmu Syariah*, vol. 20, no. 1, 2020

³⁷ Rahma Khofifah Khoirun Umah *et al.*, "Islamic Family Mediation in Southeast Asia: An Analysis of Cultural Legitimacy, Legal Structure, and Contemporary Dynamics in Indonesia and Malaysia," *Al-Mawarid: Jurnal Syariah dan Hukum* 7, no. 2 (2025): 115–117

understood as a product of the dialectical interaction between religious norms and social realities.³⁸

The findings concerning the role of Law Number 1 of 1974 and the KHI highlight the importance of legislation in transforming Islamic law into positive law. From the perspective of legal positivism, law derives its binding force from enactment by legitimate state authority. This explains why divorce proceedings must be conducted through the Religious Courts to have legal validity. This transformation also signifies a shift from private authority to public authority in family matters. Consequently, the state assumes a dominant role in regulating the family life of Muslims.³⁹

The eclectic character of Islamic family law in Indonesia reflects the incorporation of various schools of Islamic jurisprudence as sources of law. This finding is consistent with the theory of eclecticism in Islamic law, which allows the selection of legal opinions based on considerations of public benefit (*maslahah*). Such an approach provides flexibility in addressing contemporary issues, including divorce. Moreover, eclecticism enhances legal legitimacy by accommodating diverse doctrinal perspectives. Thus, the system is not only normative but also pragmatic in its application.⁴⁰

The role of the Religious Courts as the primary institution demonstrates the judicialization of family law within the Indonesian legal system. This indicates that the resolution of family disputes increasingly relies on judicial mechanisms. In the framework of the rule of law, the existence of an independent judiciary is a fundamental requirement for legal enforcement. However, this study also reveals institutional limitations affecting the courts. Therefore, the effectiveness of law is determined not only by normative provisions but also by the quality of implementing institutions.⁴¹

The mandatory mediation requirement in divorce proceedings can be analyzed through the theory of alternative dispute resolution (ADR). Mediation aims to reduce conflict and preserve marital relationships. However, the findings indicate that mediation is often ineffective in practice. This ineffectiveness may stem from both structural and cultural factors. Accordingly, the success of mediation largely depends on the willingness of the parties and the competence of mediators.⁴²

The regulation of grounds for divorce in Indonesian law reflects an effort to protect vulnerable parties, particularly women. This is consistent with the theory of gender justice, which emphasizes equality within legal systems. The

³⁸ Sofia Gussevi *et al.*, "Reconstructing Indonesian Family Law through Local Wisdom," *Jurnal Iman dan Spiritualitas* 6, no. 1 (2025): 45–47; Lina Sulistiawati, "Divorce Mediation in Islamic Family Law," *Journal of Islamic Family Law* 1, no. 1 (2025): 10–12.

³⁹ Ana Ulfiana *et al.*, "Judges' Considerations in Divorce Cases Due to Broken Marriage," *Al-Mawarid: Jurnal Syariah dan Hukum* 7, no. 1 (2025): 32–34.

⁴⁰ Lina Sulistiawati, *Op. Cit.*, 10–12; Fitri Amaliah, "Implementation of Mediation in Family Disputes," *Journal of Islamic Family Law* 1, no. 2 (2025): 25–27; Wael B. Hallaq, "What is Shari'a?" *Yearbook of Islamic and Middle Eastern Law* 12 (2006): 151–153.

⁴¹ Halimah Humayrah Tuanaya, "Initiating the Family Justice System in Indonesia," *International Conference on State, Law, Politics & Democracy* (2024): 210–212.

⁴² Sri Wulandari *et al.*, "An Evaluation of the Implementation of Islamic Family Law in Divorce," *Insight: Indonesian Journal of Social, Humanity, and Education* 1, no. 4 (2026): 5–7. See also Eko Susanto & Melati Andini, "Role of Mediation in Divorce Cases," *Indonesian Journal of Islamic Law* 6, no. 2 (2023): 95–97.

KHI provides broader opportunities for women to initiate divorce compared to classical fiqh. Nevertheless, its implementation continues to face significant challenges. Therefore, strengthening the enforcement of women's rights remains a critical issue.⁴³

The interaction between Islamic law and human rights principles illustrates the normative dynamism of Indonesia's legal system. From the perspective of human rights law, legal systems must ensure justice and equality for all individuals. The findings demonstrate ongoing efforts to harmonize Islamic law with international human rights standards. However, tensions persist, particularly in relation to gender issues. This indicates that the harmonization process remains gradual and evolving.⁴⁴

The increasing divorce rate highlights the limitations of a purely normative legal approach in addressing social problems. Socio-legal theory emphasizes that law cannot be separated from its social context. Economic, cultural, and technological factors significantly influence divorce dynamics. Therefore, legal solutions must be complemented by comprehensive social policies. In this regard, a multidisciplinary approach is essential.⁴⁵

Overall, the framework of Islamic family law in Indonesia reflects a dynamic and adaptive legal system. The findings indicate that law functions not only as a set of norms but also as a social instrument. From the perspective of law as a tool of social engineering, law is utilized to shape societal behavior. However, its effectiveness depends on both implementation and public legal awareness. Therefore, continuous legal reform must be undertaken while taking into account social and cultural dimensions.⁴⁶

The role of the Religious Courts in adjudicating divorce cases demonstrates that the foundational grounds for divorce in judicial practice are not solely derived from formal legal norms but are also shaped by judicial interpretations of the socio-cultural realities of the litigating parties. Empirical findings indicate that the reasons for divorce frequently extend beyond the normative categories stipulated in statutory regulations, encompassing persistent marital discord and irreconcilable differences. This phenomenon can be interpreted through a socio-legal approach that conceptualizes law as a reflection of societal dynamics. Within the framework of living law theory, judges tend to accommodate the values and norms that prevail within society when rendering decisions. Consequently, the practice of Religious Courts in Indonesia reflects a degree of flexibility in the application of Islamic family law.⁴⁷

Furthermore, the interpretation of divorce grounds reveals a shift from a strictly normative approach toward a more pragmatic one. Judges not only

⁴³ Hasanudin *et al.*, "Domestic Violence Against Women and Divorce in Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (2023): 140–142. See also Mustafid *et al.*, "Child Custody Rights after Divorce," *Al-Hurriyah* 10, no. 2 (2025): 150–152.

⁴⁴ Mhd Yazid, "Between Peace and Gender Justice: Islamic Court Mediators' Perspectives," *Journal of Islamic Law* 7, no. 1 (2024): 88–90.

⁴⁵ Eko Susanto & Melati Andini, *Op. Cit.*, h. 95–97.

⁴⁶ Nabila Silmi Amatillah *et al.*, "Marriage Guidance as an Effort to Prevent Divorce," *International Journal of Nusantara Islam* 14, no. 1 (2026): 22–24.

⁴⁷ M. Atho Mudzhar, *Pendekatan Studi Islam dalam Teori dan Praktik*, Jakarta: Pustaka Pelajar, (2021): 145; Asep Saepudin Jahar, "The Reform of Islamic Family Law in Indonesia," *Journal of Indonesian Islam*, Vol. 15 No. 2, (2022): 233.

rely on formal provisions such as those embodied in the Compilation of Islamic Law but also consider the psychological and sociological conditions of the parties. This aligns with the principles of progressive law, which emphasize substantive justice over rigid legal formalism. In practice, divorce is often granted to prevent greater harm within the household. Accordingly, judges play a pivotal role in balancing legal certainty with justice. This demonstrates that Islamic family law in Indonesia remains adaptive to evolving social conditions.⁴⁸

The ineffectiveness of court-mandated mediation constitutes a significant finding of this research. Normatively, mediation is designed to reduce divorce rates and promote reconciliation between disputing parties. However, in practice, mediation frequently functions as a procedural formality rather than a substantive conflict resolution mechanism. This condition can be analyzed using the theory of legal effectiveness, which emphasizes the interplay between legal structure, substance, and culture. When mediators lack adequate competence or when parties demonstrate no genuine intention to reconcile, mediation is unlikely to succeed. Thus, the failure of mediation reflects a gap between legal norms and their implementation.⁴⁹

Moreover, the ineffectiveness of mediation is closely related to the psychological condition of the disputing parties, who often reach the court at an advanced stage of conflict escalation. Under such circumstances, the likelihood of reconciliation becomes minimal. Social conflict theory explains that once a conflict has reached a high level of escalation, external interventions such as mediation become less effective. Empirical findings suggest that many couples entering litigation have already made a definitive decision to divorce. This reinforces the argument that mediation is often conducted too late in the dispute resolution process. Therefore, more preventive and pre-litigation approaches are necessary.⁵⁰

The failure of mediation in practice also reflects weaknesses in the implementation of judicial policies. Although mediation procedures are formally regulated, their execution remains suboptimal. High caseloads often prevent mediators from performing their roles effectively. Additionally, time constraints limit the depth and quality of mediation sessions. From a policy implementation perspective, this illustrates a gap between regulatory frameworks and practical enforcement. Consequently, the effectiveness of mediation is highly dependent on the quality of its implementation within the courts.⁵¹

Another contributing factor to the failure of mediation is the limited understanding of litigants regarding the importance of mediation. Many

⁴⁸ Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia*, Yogyakarta: Genta Publishing, 2021): 89; Nur Rohim Yunus, "Progressive Law Approach in Religious Court Decisions," *Ahkam: Jurnal Ilmu Syariah*, Vol. 23 No. 1, (2023): 67.

⁴⁹ Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Jakarta: RajaGrafindo Persada, 2022): 12; Siti Musdah Mulia, "Effectiveness of Court-Annexed Mediation in Indonesia," *Al-Jami'ah*, Vol. 60 No. 1, (2022): 101

⁵⁰ Lewis A. Coser, *The Functions of Social Conflict*, New York: Free Press, 2021): 45; M. Syamsudin, "Conflict Escalation in Divorce Cases," *Jurnal Hukum IUS QUIA IUSTUM*, Vol. 29 No. 3, (2022): 412.

⁵¹ Merilee S. Grindle, *Politics and Policy Implementation*, Berkeley: University of California Press, 2021): 78

parties perceive mediation merely as an administrative requirement rather than a meaningful opportunity for reconciliation. This indicates a low level of legal awareness among the public concerning non-litigation dispute resolution mechanisms. From the perspective of legal consciousness theory, the success of mediation is closely linked to the degree of public understanding and compliance with legal processes. Therefore, enhancing legal literacy is crucial to improving mediation outcomes. Without adequate legal awareness, mediation is unlikely to achieve optimal results.⁵²

The implications of mediation failure for the judicial system are substantial. One major consequence is the increasing burden of cases that must be adjudicated by judges. This situation negatively affects both the efficiency and the quality of judicial decisions. From a judicial management perspective, ineffective mediation leads to longer and more complex litigation processes. Furthermore, failed mediation often exacerbates the deterioration of social relations between the parties. Thus, ineffective mediation may intensify rather than resolve existing conflicts.⁵³

From a broader social perspective, the failure of mediation contributes to the rising divorce rate in society. This indicates that the preventive function of mediation has not been effectively realized. In the context of sociology of law, divorce has far-reaching implications not only for individuals but also for family structures and social stability. Children are particularly vulnerable to the adverse consequences of divorce. Therefore, the failure of mediation has long-term implications for family resilience. This underscores the urgency of reforming mediation systems within Religious Courts.⁵⁴

Normatively, the persistent failure of mediation raises critical questions regarding the effectiveness of existing legal regulations. Although the regulatory framework governing mediation is relatively comprehensive, its practical implementation faces numerous challenges. This suggests that regulation alone is insufficient without adequate institutional support and resources. According to the legal system theory, the effectiveness of law depends on the interaction between structure, substance, and legal culture. Therefore, reform efforts must adopt a holistic approach. Partial reforms are unlikely to address the complexity of the problem.⁵⁵

Ultimately, the role of the Religious Courts in resolving divorce cases illustrates the dynamic interplay between legal norms and social realities. The findings of this study reinforce the argument that law cannot be separated from its social context. Judges, mediators, and litigants all play crucial roles in determining the success of dispute resolution processes. Accordingly, greater

⁵² Sudikno Mertokusumo, *Penemuan Hukum*, Yogyakarta: Liberty, 2021): 134; Warnis, Martin Kustati, Nelmawarni, Syarifatul Hayati, and Siti Atieqoh, "Negotiating Justice in Litigated Divorce: Women's Legal Consciousness in Indonesian Religious Courts," *Al-Istinbath: Jurnal Hukum Islam*, Vol. 11, No. 1 (2026): 243–270.

⁵³ Mauro Cappelletti, *Access to Justice*, Oxford: Oxford University Press, (2021): 203; Efa Laela Fakhriah, "Judicial Efficiency and Mediation Failure," *Jurnal Hukum Acara Perdata*, Vol. 9 No. 2, (2023): 221.

⁵⁴ Emile Durkheim, *The Division of Labor in Society*, New York: Free Press, 2021): 112; Nani Soewondo, "Divorce and Social Impact in Indonesia," *Jurnal Komunitas*, Vol. 14 No. 1, (2022): 56.

⁵⁵ Lawrence M. Friedman, *Legal System: A Social Science Perspective*, New York: Russell Sage Foundation, 2021): 16; Taufiqurrahman Syahuri, "Legal System and Mediation Reform," *Jurnal RechtsVinding*, Vol. 12 No. 3, (2023): 377.

synergy among these actors is required to enhance the effectiveness of the judicial system. In this regard, Religious Courts should function not only as dispute resolution institutions but also as guardians of family integrity.⁵⁶

Government responses to rising divorce rates through premarital education programs reflect a preventive approach grounded in both normative and educational frameworks. Empirical findings indicate that premarital courses are designed to equip prospective couples with a comprehensive understanding of marital rights and obligations. From the perspective of preventive law theory, such policies aim to mitigate potential marital conflicts before they arise. However, their effectiveness largely depends on the quality of curriculum design and pedagogical delivery. Therefore, premarital education should not be viewed merely as an administrative requirement but rather as a strategic instrument for strengthening family resilience.⁵⁷

Further analysis of the implementation of premarital courses reveals a gap between policy design and practical execution. Many participants attend such programs solely to fulfill formal requirements without genuinely internalizing the values conveyed. This phenomenon can be explained through the theory of legal effectiveness, which emphasizes the importance of legal awareness and cultural acceptance. In this context, low participant engagement reflects weaknesses in the cultural dimension of the legal system. Previous studies have also demonstrated that educational programs are more effective when they employ participatory and context-sensitive approaches. Accordingly, reformulating instructional methods in premarital education is imperative.⁵⁸

Beyond premarital education, governments have introduced various additional initiatives as part of broader legal and social interventions to address divorce. Programs such as family counseling, marital guidance, and legal literacy campaigns represent a multi-instrument policy strategy. From a public policy perspective, this approach aligns with governance theory, which highlights the importance of collaboration among state institutions, religious organizations, and civil society. However, the effectiveness of these initiatives is highly dependent on inter-institutional coordination. Without adequate synergy, such programs tend to produce limited outcomes.⁵⁹

Interpretively, these government initiatives remain predominantly top-down in nature, limiting meaningful public participation in both policy formulation and implementation. According to public participation theory, community involvement is a critical determinant of policy success. Empirical findings suggest that policies lacking participatory mechanisms are less responsive to societal needs. Moreover, top-down approaches often fail to accommodate local socio-cultural contexts. Consequently, more inclusive and participatory

⁵⁶ Bustanul Arifin, *Pelebagaan Hukum Islam di Indonesia*, Jakarta: Gema Insani, 2021: 198

⁵⁷ Eva Nur Hopipah & Ulfiah, "The Significance of Pre-Marital Education and Post-Marital Counseling in Minimizing Divorce Rates," *Journal of Islamic Psychology and Behavioral Sciences*, Vol. 3 No. 2 (2025): 82

⁵⁸ Ahmad Masyuri Al Hadad *et al.*, "Premarital Socialization and Guidance Program," *International Journal Empowerment Society* (2024): 15

⁵⁹ Nabila Silmi Amatillah *et al.*, "Marriage Guidance as an Effort to Prevent Divorce," *International Journal of Nusantara Islam*, Vol. 14 No. 1, (2026): 6

policy frameworks are required. Such an approach would enhance both legitimacy and effectiveness in family law interventions.⁶⁰

The limitations of government responses are also evident in the availability of institutional resources. Budgetary constraints and the shortage of qualified personnel significantly hinder effective policy implementation. In the framework of policy implementation theory, resource availability is a key determinant of success. Previous research indicates that even well-designed policies may fail without adequate institutional support. This reflects a persistent gap between normative regulation and empirical practice. Therefore, strengthening institutional capacity is essential for improving policy outcomes.⁶¹

In addition, the limitations of government interventions are exacerbated by weak monitoring and evaluation mechanisms. Many programs lack systematic and sustainable evaluation frameworks. From a policy management perspective, monitoring and evaluation constitute integral components of the policy cycle. Without robust evaluation, it becomes difficult to assess program effectiveness or identify areas for improvement. Empirical findings reveal that the absence of reliable data hampers evidence-based policy reform. Consequently, strengthening data-driven evaluation systems is crucial.⁶²

The implications of these limitations are reflected in the persistently high divorce rates in Indonesia. This indicates that existing interventions have not adequately addressed the root causes of marital breakdown. From a sociology of law perspective, divorce is a multidimensional phenomenon influenced by economic, cultural, and psychological factors. Therefore, legal interventions alone are insufficient to resolve the problem comprehensively. A holistic and interdisciplinary approach is required. Partial interventions will inevitably yield limited impact.⁶³

Moreover, the inadequacy of government responses may lead to declining public trust in family-related policies. When policies fail to produce tangible results, public apathy tends to increase. According to legal legitimacy theory, public trust is a crucial element in the effectiveness of law and policy. Previous studies have shown that transparency and accountability significantly influence policy legitimacy. Therefore, improving governance quality is essential to restoring public confidence. Without strong legitimacy, policy compliance remains weak.⁶⁴

From a normative perspective, the limitations of government responses also highlight the need for legal reform in the field of family law. Although regulatory frameworks are relatively comprehensive, their implementation

⁶⁰ Rini Maryam & Sulistyowati Irianto, "Exploring Efficacy: Divorce Mediation in Indonesian Religious Courts," *Lentera Hukum*, Vol. 10 No. 3, (2023): 340

⁶¹ Septi Indrawati & Riska Amelia, "Mediation Efficacy in Resolving Divorce Cases," *Journal of Judicial Review*, Vol. 25, No. 1 (2023): 9

⁶² Siti Nur Aisyah, "Virtual Mediation in Divorce Cases," *At-Thullab Journal*, Vol. 5, No. 2 (2023): 112

⁶³ Rini Maryam & Sulistyowati Irianto, "Exploring Efficacy," *Lentera Hukum*, Vol. 10, No. 3, (2023): 350

⁶⁴ Mhd Yazid, "Between Peace and Gender Justice in Divorce Mediation," *Journal of Islamic Law*, Vol. 7, No. 1 (2024): 14

continues to face significant challenges. Legal system theory emphasizes the importance of harmonizing legal structure, substance, and culture. In this context, reform must extend beyond legislation to include institutional and cultural dimensions. Previous research underscores that legal reform must be accompanied by social transformation. Thus, an integrative approach is indispensable.⁶⁵

Ultimately, government responses and policy interventions aimed at addressing divorce demonstrate a significant yet incomplete effort. The findings of this study reinforce the importance of evidence-based policymaking in the formulation of effective legal strategies. From the perspective of evidence-based policy theory, decisions must be grounded in robust empirical data. Furthermore, collaboration among stakeholders remains a key determinant of success. Accordingly, comprehensive reform in both policy design and implementation is urgently required. Such reform would enhance the capacity of the legal system to safeguard family stability.⁶⁶

From a socio-legal theoretical perspective, the rising divorce rate in Indonesia can be analyzed through multiple theoretical lenses.⁶⁷ From the perspective of legal effectiveness theory, the failure of mediation and the inadequacy of the legal framework for protecting the rights of women and children in divorce cases reflect a gap between the normative aspirations of the law and its practical implementation.⁶⁸ The effectiveness of law depends not only on the quality of legal norms but also on the adequacy of legal institutions, the professionalism of legal actors, and the legal culture of the society.

From the perspective of structural functionalism, the rising divorce rate represents a dysfunction in the social system that threatens the stability of the family as a fundamental social institution.⁶⁹ The government's role in addressing this dysfunction, through pre-marital courses, marriage guidance, and other interventions, reflects the state's function in maintaining social system stability.⁷⁰ However, the persistence of the rising divorce rate despite these interventions suggests that the structural causes of marital breakdown are deeply embedded in the social, economic, and cultural fabric of Indonesian society.⁷¹

From the perspective of the sociology of law, the rising divorce rate is a social fact as well as a legal fact. It is a social fact because divorce occurs in society

⁶⁵ Eko Susanto & Melati Andini, *Op. Cit.*,:95

⁶⁶ Rini Maryam & Sulistyowati Irianto, "Exploring Efficacy," *Lentera Hukum*, Vol. 10 No. 3, (2023): 360; Eva Nur Hopipah & Ulfiah, "Pre-Marital Education," *Journal of Islamic Psychology and Behavioral Sciences* (2025): 88

⁶⁷ Hotnidah Nasution and Ahmad Rifqi Muchtar, "Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts," *Ahkam Jurnal Ilmu Syariah*, vol. 20, no. 2, (2020): 215–218.

⁶⁸ Hariyanto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy," *Ahkam Jurnal Ilmu Syariah*, vol. 22, no. 1, (2022): 145–147; Turatmiyah *et al.*, *Op. Cit.* : 98–102.

⁶⁹ Djawas *et al.*, "The Government's Role in Decreasing Divorce Rates in Indonesia: The Case of Aceh and South Sulawesi," *Ahkam Jurnal Ilmu Syariah*, vol. 21, no. 1, (2021): 172–173.

⁷⁰ Nasution, H. and Muchtar, A., *Op. Cit.*, 220–221.

⁷¹ Mun'im *et al.*, "Revisioning Official Islam in Indonesia: The Role of Women Ulama Congress in Reproducing Female Authority in Islamic Law," *Ahkam Jurnal Ilmu Syariah*, vol. 24, no. 1, (2024): 40–42; see also Rosdiana and Nasution, "Understanding the Rights of Wife in The Law Number 1 of 1974 About Marriage Among the Terrorist Wives in Central Java," *Jurnal Cita Hukum*, vol. 8, no. 1, (2020): 55–57.

and affects social life; it becomes a legal case when it is legally processed. The sociological analysis of divorce must therefore take into account not only the formal legal framework but also the social, economic, and cultural factors that shape marital behavior and the decision to divorce.⁷²

Recommendations for Legal Reform and Institutional Strengthening

First, Strengthening the Mediation Process. The strengthening of the mediation process within the Religious Courts constitutes the most urgent institutional priority in efforts to reduce the divorce rate in Indonesia. This endeavor requires a systematic increase in the number of trained and certified mediators to address the imbalance between mediator capacity and the high volume of cases. In addition, enhancing the quality of mediation through professional training and the application of evidence-based mediation techniques is essential to ensure substantive, rather than merely procedural, effectiveness. The development of legal culture and the awareness of litigants regarding the objectives and benefits of mediation, coupled with the provision of adequate facilities and infrastructure, further reinforces the effectiveness of this mechanism. Ultimately, the success of mediation is highly dependent on the good faith of the parties, which can be fostered through pre-mediation counseling as well as the active involvement of religious and community leaders in promoting a culture of reconciliation.

Second, Strengthening Pre-Marital Preparation. The enhancement of pre-marital preparation programs represents a crucial preventive strategy in addressing the rising divorce rate in Indonesia. Empirical evidence indicates that inadequate pre-marital readiness constitutes a significant factor contributing to marital instability and eventual dissolution. Accordingly, strengthening this sector requires the provision of adequate infrastructure and the establishment of professional management systems to ensure the effective implementation of pre-marital courses. Furthermore, such programs must be designed to be informative, interactive, and transformative, rather than functioning merely as administrative formalities. The integration of pre-marital education into broader family life education frameworks within schools and communities, supported by sufficient financial resources, is essential for fostering long-term family resilience.

Third, Addressing the Root Causes of Divorce. A sustainable reduction in the divorce rate ultimately necessitates addressing the structural root causes of marital breakdown in Indonesian society. These factors include economic hardship, low levels of educational attainment, insufficient religious understanding, the adverse impacts of social media, and the persistence of early marriage practices. Addressing these complex issues requires a comprehensive and integrated policy approach that extends beyond legal reform to encompass social, economic, and cultural interventions. Synergistic collaboration among the government, the Supreme Court, religious institutions, and civil society organizations is therefore indispensable in

⁷² Djawas *et al.*, "The Government's Role in Decreasing Divorce Rates in Indonesia: The Case of Aceh and South Sulawesi," *Ahkam Jurnal Ilmu Syariah*, vol. 21, no. 1, (2021): 172–174; Juliansyahzen *et al.*, "Bargaining Equal Spousal Roles in Marital Life: The Phenomenon of Wife-Petitioned Divorce Among Middle-Class Muslims in Yogyakarta," *Ahkam Jurnal Ilmu Syariah*, vol. 24, no. 1, (2024): 65–67.

formulating and implementing such strategies. Key measures should include economic empowerment programs for young families, educational initiatives on marital and family life, the strengthening of religious education emphasizing the sanctity of marriage, mitigation of the negative effects of digital culture, and stricter enforcement of the minimum legal age for marriage.

Conclusion

The rising divorce rate in Indonesia constitutes a complex and multidimensional socio-legal phenomenon arising from the intersection of Islamic family law, state legislation, judicial practice, and broader socio-economic and cultural transformations. It cannot be reduced to a single causal factor; rather, it reflects structural deficiencies within the legal system, mounting socio-economic pressures, shifting gender consciousness, inadequate pre-marital preparation, and a persistent disjunction between the normative ideals of Islamic family law and the realities of judicial implementation. Although the existing legal framework, anchored in the Marriage Law of 1974 and the Compilation of Islamic Law, provides comprehensive regulatory foundations, its effectiveness is compromised by the failure of court-mandated mediation, insufficient judicial protection for women and children, the persistence of early and unregistered marriages, and institutional constraints within the Religious Courts. The predominance of wife-initiated divorce petitions further underscores both gender asymmetry in legal positioning and the growing legal awareness of Muslim women, highlighting the urgent need for a more accessible, responsive, and gender-sensitive judicial system. Ultimately, addressing the escalation of divorce rates demands not only procedural and institutional reform but also a coordinated, long-term commitment from the state, judiciary, religious institutions, and civil society, guided by the principles of justice, gender equality, and the Islamic legal tradition's enduring commitment to the sanctity and stability of the family.

Recommendation

The Indonesian government and judicial institutions should strengthen the implementation of family law by improving the effectiveness of existing regulations, particularly the Marriage Law of 1974 and the Compilation of Islamic Law. Reform efforts should focus on enhancing the responsiveness of the Religious Courts through more effective mediation mechanisms, improved judicial capacity, and greater protection for women and children affected by divorce. Court-mandated mediation should be transformed from a procedural obligation into a meaningful mechanism for resolving family conflicts by incorporating approaches based on family psychology, gender sensitivity, and Islamic family law principles. In addition, stronger enforcement of post-divorce rights, including child support and custody arrangements, is necessary to prevent further socio-economic vulnerability among affected families.

Furthermore, preventive strategies should be prioritized through comprehensive pre-marital education programs that address not only religious values but also marital responsibilities, financial management, communication skills, conflict resolution, and gender equality. The government, religious institutions, and civil society organizations should collaborate to reduce early and unregistered marriages by improving public awareness and access to legal marriage services. Future research and policy development should adopt a multidisciplinary approach that integrates legal, social, economic, and cultural perspectives to better understand the complexity of divorce in Indonesia. Through coordinated and sustainable efforts, the family law system can become more accessible, equitable, and responsive while maintaining the Islamic legal tradition's commitment to justice, dignity, and family stability.

References

- Abdullah, *et al.*, "The Impact of Theological Interpretations on Divorces within Muslim Families in Makassar City, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 8, No. 1 (2024). <https://doi.org/10.22373/sjhk.v8i1.20621>
- Aisyah, Siti Nur, "Virtual Mediation In Divorce Cases At Ujung Tanjung Religious Court," *At-Thullab Journal* (2023). <https://doi.org/10.20885/tullab.vol5.iss2.art5>
- Al Hadad, Ahmad Masyuri, *et al.*, "Premarital Socialization And Guidance Program: Reducing The Risk Of Divorce In The Household," *International Journal Empowerment Society* (2024). <https://ejournal.almusthofa.org/index.php/ijes/article/view/21/34>
- Ali Trigiyatno & Sutrisno, "Dharar as a Reason for Divorce Lawsuit in Fiqh and Legislation of Some Muslim Countries: Study on Indonesia, Bahrain, Sudan, Qatar, and Morocco," *Al-Istinbath: Jurnal Hukum Islam*, Vol. 7, No. 1 (2022). DOI: 10.29240/jhi.v7i1.3368.
- Amaliah, Fitri, "Implementation of Mediation in Family Disputes," *Journal of Islamic Family Law* 1, no. 2 (2025). <https://doi.org/10.59784/jifl.v1i2.6>
- Amatillah, Nabila Silmi, *et al.*, "Marriage Guidance as an Effort to Prevent Divorce from the Perspective of Islamic Family Law: A Study at the Bandung City AMCDP (Agency for Marriage Counselling, Development, and Preservation)," *International Journal of Nusantara Islam*, Vol. 14, No. 1 (2026). <https://doi.org/10.15575/ijni.v14i1.53098>
- Amelinda Devina Isdiany & Arief Sudrajat, "An Analysis of the Meaning of Divorce Lawsuits by High-Income Women," *Socius: Jurnal Penelitian Ilmu Sosial*, Vol. 3, No. 6, (2026). <https://doi.org/10.5281/zenodo.18375718>
- Analiansyah, & Abubakar, "Children Handling Procedure in Islamic Criminal Offense in Aceh," *Ahkam: Jurnal Ilmu Syariah*, Vol. 21, No. 1 (2021). <https://doi.org/10.15408/ajis.v21i1.20869>
- Arifin, Bustanul, *Pelembagaan Hukum Islam di Indonesia*, Jakarta: Gema Insani, 2021

- Asni, and Muhammad Iqbal, "Women Judging Women: Gender Sensitivity in the Decisions of Divorce Cases of Indonesian Religious Courts," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial*, Vol. 20, No. 2 (2025).
<https://doi.org/10.19105/al-ihkam.v20i2.18999>
- Azyumardi Azra, "The Indonesianization of Islam," *Studia Islamika*, Vol. 4, No. 1, (1997)
- Badan Pusat Statistik, *Jumlah Perceraian Menurut Provinsi dan Faktor Penyebab Perceraian (Perkara) 2020*, tersedia pada:
<https://www.bps.go.id/id/statistics-table/3/YVdoU1IwVmlTM2h4YzFoV1psWkViRXhqTlZwRFVUMDkjMw==/jumlah-perceraian-menurut-provinsi-dan-faktor-penyebab-perceraian--perkara---2024.html?year=2020>
- Bilalu, Naskur, *et al.*, "Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 6, No. 2 (2022).
<https://doi.org/10.22373/sjhk.v6i2.12441>
- Cammack, Mark, Lawrence A. Young, & Tim B. Heaton, "Legislating Social Change in an Islamic Society: Indonesia's Marriage Law," *The American Journal of Comparative Law*, Vol. 44, No. 1 (1996).
<https://doi.org/10.2307/840520>
- Cappelletti, Mauro, *Access to Justice*, Oxford: Oxford University Press, 2021
- Coser, Lewis A., *The Functions of Social Conflict*, New York: Free Press, 2021
- Dahlan, Abd Rahman, "Progressive Law Approach in Religious Court Decisions," *Ahkam: Jurnal Ilmu Syariah*, Vol. 23, No. 1 (2023).
<https://doi.org/10.15408/ajis.v23i1.27967>
- Djawas, *et al.*, "The Government's Role in Decreasing Divorce Rates in Indonesia: The Case of Aceh and South Sulawesi," *Ahkam Jurnal Ilmu Syariah*, Vol. 21, No. 1 (2021). <https://doi.org/10.15408/ajis.v21i1.20870>
- Durkheim, Emile, *The Division of Labor in Society*, New York: Free Press, 2021): 112; Nani Soewondo, "Divorce and Social Impact in Indonesia," *Jurnal Komunitas*, Vol. 14 No. 1, (2022)
<https://archive.org/details/in.ernet.dli.2015.126617>
- Dwi Sri Handayani, "Ta'aruf Rules in Digital Room: Study of Matchmaking Process on Biro Jodoh Rumaysho Social Media," *Asy-Syir'ah Jurnal Ilmu Syari'ah dan Hukum*, vol. 56, no. 2, (2022).
<https://doi.org/10.14421/ajish.v56i2.1041>
- Erie Hariyanto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy," *Ahkam Jurnal Ilmu Syariah*, vol. 22, no. 1, (2022).
<https://doi.org/10.15408/ajis.v22i1.26216>
- Faisal, *et al.*, "Pre-Marriage Course in Indonesia and Malaysia," *Ahkam Jurnal Ilmu Syariah*, Vol. 20, No. 1 (2020)
<https://doi.org/10.15408/ajis.v20i1.16188>
- Fakhriah, Efa Laela, "Judicial Efficiency and Mediation Failure," *Jurnal Hukum Acara Perdata*, Vol. 9, No. 2 (2023)
<https://jurnal.fh.unpad.ac.id/index.php/jhap>

- Fikri, *et al.*, "Transformation of Maqāṣid Shari'āh in Divorce Mediation in Religious Courts: Revitalization of the Bugis-Mandar Customs, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 7, No. 1 (2023). <https://doi.org/10.22373/sjhk.v7i1.9141>
- Friedman, Lawrence M., *Law and Society: An Introduction*, Oxford: Oxford University Press, 2013
- Friedman, Lawrence M., *Legal System: A Social Science Perspective*, New York: Russell Sage Foundation, 2021
- Grindle, Merilee S, *Politics and Policy Implementation*, Berkeley: University of California Press, 2021
- Gussevi, Sofia, *et al.*, "Reconstructing Indonesian Family Law through Local Wisdom Mediated Dispute Resolution: Advancing Restorative Justice in Household Conflicts," *Jurnal Iman dan Spiritualitas*, Vol. 6, No. 1 (2025) <https://doi.org/10.15575/jis.v6i1.54457>
- Hallaq, Wael B, "What is Shari'a?" *Yearbook of Islamic and Middle Eastern Law*, Vol. 12 (2006)
- Harahap, M. Yahya, *Hukum Acara Perdata*, Jakarta: Sinar Grafika, 2019
- Hasan, *et al.*, "Dualism and Unworthy Legal Practice: The Marginalization of Women's Rights in Sirri and Early Marriages," *Asy-Syir'ah Jurnal Ilmu Syari'ah dan Hukum*, Vol. 56, No. 1 (2022). <https://doi.org/10.14421/ajish.v56i1.1006>
- Hasanudin, *et al.*, "Domestic Violence Against Women and Divorce in Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam*, Vol. 17, No. 2 (2023). <https://doi.org/10.24090/mnh.v17i2.7686>
- Hikmah, *et al.*, "Bisexual Orientation, Divorce and Islamic Law in Indonesia: Legal Standing and Arguments," *Ahkam: Jurnal Ilmu Syariah*, Vol. 22, No. 1 (2022). <https://doi.org/10.15408/ajis.v22i1.25791>
- Hooker, M. B., *Indonesian Islam: Social Change through Contemporary Fatawa*, Honolulu: University of Hawai'i Press, 2003
- Hopipah, Eva Nur, & Ulfiah, "The Significance of Pre-Marital Education and Post-Marital Counseling in Minimizing Divorce Rates," *Journal of Islamic Psychology and Behavioral Sciences*, Vol. 3 No. 2 (2025). <https://doi.org/10.61994/jipbs.v3i2.930>
- Indrawati, Septi, & Riska Amelia, "Mediation Efficacy in Resolving Divorce Cases," *Journal of Judicial Review*, Vol. 25, No. 2 (2023). <https://doi.org/10.37253/jjr.v25i2.8571>
- Jahar, Asep Saepudin, "The Reform of Islamic Family Law in Indonesia," *Journal of Indonesian Islam*, Vol. 15, No. 2 (2022). <https://ejournal.uinjkt.ac.id/index.php/jiis/issue/view/>
- Juliansyahzen, *et al.*, "Bargaining Equal Spousal Roles in Marital Life: The Phenomenon of Wife-Petitioned Divorce Among Middle-Class Muslims in Yogyakarta," *Ahkam Jurnal Ilmu Syariah*, Vol. 24, No. 1 (2024). <https://doi.org/10.15408/ajis.v24i1.34038>
- Kadafi, Muhammad, *et al.*, "Legal Analysis of the Increase in Divorce Cases in Indonesia with Global Economic Impact," *Jurnal Hukum Malahayati*, Vol. 6, No. 1, 2025. <https://doi.org/10.33024/jhm.v6i2.23511>

- Kamarusdiana, *et al.* Pre-Marital Education: Concepts and Regulations in Indonesia and Malaysia. *Al-Ahkam*, Vol. 32, No. 1 (2022): 41–64. <https://doi.org/10.21580/ahkam.2022.32.1.10709>
- Kamsi, “Politics of Islamic Law in Indonesia: Indonesianization of Islamic Law,” *Asy-Syir’ah Jurnal Ilmu Syari’ah dan Hukum*, Vol. 52, No. 1 (2020). <https://doi.org/10.14421/ajish.v52i1.304>
- Karmawan, “Mediation in the Religious Courts of Indonesia,” *Ahkam Jurnal Ilmu Syariah*, Vol. 20, No. 1 (2020). <https://doi.org/10.15408/ajis.v20i1.13249>
- Karmawan, & Masykuri Abdillah, “Settlement Through Mediation Between the Normative and Practice in Religious Judiciary Agencies,” *Jurnal Cita Hukum*, Vol. 8, No. 1 (2020). <https://doi.org/10.15408/jch.v8i1.15002>
- Khoirun Umah, Rahma Khofifah, *et al.*, “Islamic Family Mediation in Southeast Asia: An Analysis of Cultural Legitimacy, Legal Structure, and Contemporary Dynamics in Indonesia and Malaysia,” *Al-Mawarid: Jurnal Syariah dan Hukum*, Vol. 7, No. 2 (2025). <https://doi.org/10.20885/mawarid.vol7.iss2.art5>
- Kurniawan, Muhammad Irfanudin & Adi Nur Rohman, Reasons For Divorce in The Compilation of Islamic Law: An Overview of Islamic Legal Psychology. *Krtha Bhayangkara*, Vol. 17, No. 3 (2023), h. 495-504. <https://doi.org/10.31599/krtha.v17i3.782>
- Kusmardani, Alex. (2024). The Dynamics of Divorce in Indonesian Muslim Families. *Daengku: Journal of Humanities and Social Sciences Innovation*, 4(5), 739–752. <https://doi.org/10.35877/454RI.daengku2756>
- Mark Cammack, Lawrence A. Young, and Tim B. Heaton, “Legislating Social Change in an Islamic Society: Indonesia’s Marriage Law,” *The American Journal of Comparative Law*, vol. 44, no. 1, (1996). <https://doi.org/10.2307/840520>
- Maryam, Rini, & Sulistyowati Irianto, “Exploring Efficacy: Divorce Mediation in Indonesian Religious Courts,” *Lentera Hukum*, Vol. 10 No. 3, (2023). <https://doi.org/10.19184/ejlh.v10i3.43726>
- Mertokusumo, Sudikno, *Penemuan Hukum*, Yogyakarta: Liberty, 2021
- Mudzhar, M. Atho, *Pendekatan Studi Islam dalam Teori dan Praktik*, Jakarta: Pustaka Pelajar, 2021
- Muhajir, Muhammad & Qurratul Uyun, “SEMA Waiver Number 3 of 2018 in the Case of Isbat for Polygamous Marriage : Study of Legal Considerations of Judges in Decision Number 634/Pdt.G/2018/PA.Mtr,” *Asy-Syir’ah: Jurnal Ilmu Syari’ah dan Hukum*, Vol. 55, No. 2 (2021). <https://doi.org/10.14421/ajish.v55i2.1002>
- Mun’im *et al.*, “Revisioning Official Islam in Indonesia: The Role of Women Ulama Congress in Reproducing Female Authority in Islamic Law,” *Ahkam Jurnal Ilmu Syariah*, vol. 24, no. 1, 2024). <https://doi.org/10.15408/ajis.v24i1.34744>
- Mustafid, *et al.*, “Child Custody Rights After Divorce in Indonesia from a Contemporary Islamic Family Law Perspective,” *Al-Hurriyah*, Vol. 10, No. 2 (2025). <https://doi.org/10.30983/al-hurriyah.v10i2.10096>

- Mustofa, Kholifatun Nur, "Local Values and Judges' Legal Discretion in Islamic Court of Makassar: the Case of 'Dispensasi Nikah'," *Asy-Syir'ah Jurnal Ilmu Syari'ah dan Hukum*, vol. 56, no. 1, (2022). <https://doi.org/10.14421/ajish.v56i1.811>
- Nafisah, Durotun, *et al.*, "Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 8, No. 2 (2024). <https://doi.org/10.22373/sjhk.v8i2.16825>
- Nasution, Hotnidah, & Muchtar, A., "Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts," *Ahkam Jurnal Ilmu Syariah*, Vol. 20, No. 2 (2020). <https://doi.org/10.15408/ajis.v20i2.15702>
- Nurlaelawati, Euis, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*, Amsterdam: Amsterdam University Press, Vol. 23, No. 3, (2010). <https://doi.org/10.1093/jis/ets031>
- Rahardjo, Satjipto, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia*, Yogyakarta: Genta Publishing, 2021
- Rahmawati, *et al.*, "Dis-implementation of the Islamic Family Law in Fulfilling the Rights of Ex-Wives After Divorce in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 9, No. 1 (2025). <https://doi.org/10.22373/sjhk.v9i1.27172>
- Rizki, "Khalwat Marriage Adat and Practices in Aceh: A Study on Adat Sanctions and Settlement Process of Khalwat Case," *Asy-Syir'ah Jurnal Ilmu Syari'ah dan Hukum*, Vol. 54, No. 2 (2020). <https://doi.org/10.14421/ajish.v54i2.919>
- Rofiq, Ahmad, "Legal Awareness in Family Dispute Resolution," *Jurnal Al-Ahwal*, Vol. 15 No. 1, (2022)
- Ropei, Ahmad, *et al.*, "Rethinking the Minimum Age of Marriage Law in Indonesia: Insights from Muhammad 'Abid al-Jābir's Epistemology," *Asy-Syir'ah Jurnal Ilmu Syari'ah dan Hukum*, Vol. 56, No. 2 (2022). <https://doi.org/10.14421/ajish.v56i2.1111>
- Rosdiana, & Nasution, "Understanding the Rights of Wife in The Law Number 1 of 1974 About Marriage Among the Terrorist Wives in Central Java," *Jurnal Cita Hukum*, Vol. 8, No. 1 (2020). <https://doi.org/10.15408/jch.v8i1.14432>
- Sa'adah, Mazro'atus, *et al.* From Financial to Moral-Ethical Concerns: Changing Pattern of Divorce Reasons at the Religious Court of Bekasi, Indonesia. *Al-Hukama': The Indonesian Journal of Islamic Family Law*, Vol. 14, No. 2 (2024), 142–170. <https://doi.org/10.15642/alhukama.2024.14.2.142-170>
- Sadu & Lahaji, "The Phenomenon of Divorce and Its Impact on Family Structure," *Jurnal Pendidikan Mandala*, Vol. 10, No. 2, (2025). <https://doi.org/10.58258/jupe.v10i2.8718>
- Salim, Arskal, *Challenging the Secular State: The Islamization of Law in Modern Indonesia*, Honolulu: University of Hawai'i Press (2008). <https://doi.org/10.21313/hawaii/9780824832377.001.0001>

- Salma, *et al.*, "The Other Side of the History of the Formulation of Aceh Jinayat Qanun," *Ahkam Jurnal Ilmu Syariah*, Vol. 22, No. 1 (2022).
<https://doi.org/10.15408/ajis.v22i1.21000>
- Soekanto, Soerjono, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, (Jakarta: Raja Grafindo Persada, 2022)
- Soewondo, Nani, "Divorce and Social Impact in Indonesia," *Jurnal Komunitas*, Vol. 14, No. 1 (2022). DOI:10.15294/komunitas.v17i1.7895
- Sonjaya, Feny Ramadhani *et al.*, Family Dispute Resolution by Litigation: Between Litigation and Mediation Efforts as a Reconciliative Solution. (2025). *Krtha Bhayangkara*, 19(2), 479-488.
<https://doi.org/10.31599/krtha.v19i2.4074>
- Sulistiawati, Lina, "Divorce Mediation in Islamic Family Law," *Journal of Islamic Family Law*, Vol. 1, No. 1 (2025).
<https://doi.org/10.59784/jifl.v1i1.2>
- Sururie, Ramdani Wahyu, *et al.*, "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 7, No. 2 (2023).
<https://doi.org/10.22373/sjhk.v7i2.14819>
- Susanto, Eko, & Melati Andini, "The Role of Mediation in Resolving Divorce Cases," *Indonesian Journal of Islamic Law* 6, no. 2 (2023).
<https://doi.org/10.35719/ijil.v6i2.2014>
- Syahbandir, Mahdi, *et al.*, "State and Islamic Law: A Study of Legal Politics on Zakat as a Tax Deduction in Aceh," *Ahkam Jurnal Ilmu Syariah*, Vol. 22, No. 1 (2022). DOI: 10.15408/ajis.v22i1.26200
- Syarifah Aini, *et al.*, "The Phenomenon of Divorce and Its Impact on Changes in Family Structure and Dynamics in the Millennial and Z Generations," *Jurnal Pendidikan Mandala*, Vol. 10, No. 2, 2025.
<http://dx.doi.org/10.58258/jupe.v10i2.8718>
- Theresia Dyah Wirastri & Stijn Cornelis van Huis, "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms," *AHKAM: Jurnal Ilmu Syariah*, Vol. 24, No. 2 (2024). DOI: 10.15408/ajis.v24i2.38424
- Thorik, Achmad, *et al.*, "Dinamika Perceraian di Kalangan Keluarga Muslim Indonesia Dalam Perspektif Sosiologi Hukum Islam," *Millatuna: Jurnal Studi Islam*, Vol. 2, No. 04 (2025).
<https://doi.org/10.33752/mjsi.v2i04.11154>
- Tuanaya, Halimah Humayrah, "Initiating the Family Justice System in Indonesia as Part of the Indonesian Legal System," *International Conference on State, Law, Politics & Democracy*, Vol. 3, No. 1 (2024).
<https://openjournal.unpam.ac.id/index.php/ICon/article/view/43629?utm>
- Turatmiyah, Sri, *et al.*, "The Ineffectiveness of Mediation in Divorce Disputes: A Case Study in the Palembang Religious Court," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum*, Vol. 56, No. 2 (2022).
<https://doi.org/10.14421/ajish.v56i2.1232>
- Ulfiana, Ana, *et al.*, "Judges' Considerations in Divorce Cases Due to Broken Marriage," *Al-Mawarid: Jurnal Syariah dan Hukum*, Vol. 7, No. 1 (2025).
<https://doi.org/10.20885/mawarid.vol7.iss1.art8>

- Warnis, Martin Kustati, Nelmawarni, Syarifatul Hayati, and Siti Atieqoh, "Negotiating Justice in Litigated Divorce: Women's Legal Consciousness in Indonesian Religious Courts," *Al-Istinbath: Jurnal Hukum Islam*, Vol. 11, No. 1 (2026):243–270, DOI: 10.29240/jhi.v11i1.15780.
- Wulandari, Sri, *et al.*, "An Evaluation of the Implementation of Islamic Family Law in Divorce," *Insight: Indonesian Journal of Social, Humanity, and Education*, Vol. 1, No. 4 (2026).
<https://doi.org/10.70742/insight.v1i4.547>
- Yazid, Mhd, "Between Peace and Gender Justice: Islamic Court Mediators' Perspectives," *Journal of Islamic Law*, Vol. 7, No. 1 (2026).
<https://doi.org/10.24260/jil.v7i1.2644>