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Redistributing Divorce Authority: Legal Pluralism, Women's Agency, and Post-Divorce Justice in Indonesia

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Abstract

The institutionalization of divorce through Indonesia's religious courts redistributes authority within families without necessarily securing justice for women. This article examines how Islamic divorce norms, state law, and social relations shape the authority to dissolve marriages and obtain post-divorce entitlements. It adopts a documentary socio-legal approach combining thematic reading of Qur'anic passages, analysis of marriage legislation and judicial guidelines, Supreme Court case statistics for 2024–2025, and a narrative synthesis of published research. Three findings emerge. First, Qur'anic norms constrain the misuse of divorce authority through requirements of fair treatment, prohibitions of harm, and economic responsibilities, while retaining differentiated spousal powers. Second, state law places legal recognition of divorce under judicial authority and provides women with a litigation pathway, yet maintains procedural distinctions between husband- and wife-initiated divorce. Third, the predominance of wife-initiated filings does not establish that women receive their post-divorce economic entitlements. Published studies suggest that dependence on intermediaries, bargaining power, and judicial practices also shape access to such rights. The article proposes a framework of redistributed divorce authority distinguishing initiation, adjudication, and realization of entitlements. This framework extends the analysis of family law reform beyond formal recognition to the distribution of legal benefits, explaining why changes in institutional authority may not yield corresponding advances in substantive gender justice.

INTRODUCTION

Divorce does more than just end a marital bond; it alters legal status, access to economic resources, and social relationships among family members. In societies where religion serves as the source of marital legitimacy, the decision to divorce can bring moral imperatives, the authority of spouses, and state procedures into a single dispute. Indonesia provides a clear illustration of this intersection. Article 39 of Law Number 1 of 1974 concerning Marriage mandates that a divorce must take place before a court of law, following unsuccessful attempts to reconcile the couple. For Muslim couples, the religious court (pengadilan agama) acts as the institution that secures state recognition for the dissolution of a marriage. However, the court's authority does not eliminate the underlying inequalities that often precipitate a divorce. The 2025 Annual Report of the Supreme Court records 401,948 cases of divorce initiated by the wife (cerai gugat) and 115,649 cases initiated by the husband (cerai talak) at the first instance level—with approximately 77.7% of the total cases falling into the former category.[1] While these data highlight the significant extent to which women utilize legal channels, they do not reveal the extent to which women are actually able to secure financial support or other benefits following the end of a marriage. This is where divorce becomes a matter for the sociology of law, how do shifts in the regulation of authority relate to the distribution of justice within social life?

Scholarship on Muslim divorce law in Indonesia has developed along several lines. Anthropological studies and research on the hermeneutics of Islamic law situate divorce regulations within the interplay of divine revelation, tradition, and social change.[2] Institutional studies demonstrate the role of the courts in reforming family law and adjusting the protection of women's rights.[3] Meanwhile, research focusing on the experiences of those seeking justice examines the strategies women employ when filing for divorce, their use of intermediaries, and the limited bargaining power they often possess when claiming economic rights.[4]

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[1] Supreme Court of the Republic of Indonesia, "Annual Report 2025" (Jakarta, 2026), https://kepaniteraan.mahkamahagung.go.id/images/laporan_tahunan/FA_LAPTAH_2025.pdf.

2 Ali Sodiqin, "Qur'anic Reform in Divorce Law: An Anthropological Study of Islamic Law," Al-Mazaahib: Journal of Comparative Law 2, no. 2 (2014): 259–84, https://doi.org/10.14421/al-mazaahib.v2i2.1369; Ihab Habudin, "Evaluating the Thematic-Holistic Method in the Reform of Muslim Family Law (An Examination of Khoiruddin Nasution's Thought)," Al-Ahwāl 8, no. 1 (2015): 49–62, https://doi.org/10.14421/ahwal.2015.08104.

3 Theresia Dyah Wirastri and Stijn Cornelis Van Huis, "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms," Ahkam: Jurnal Ilmu Syariah 24, no. 2 (2024): 215–32, https://doi.org/10.15408/ajis.v24i2.38424; Ramadhita Ramadhita, Mahrus Ali, and Bachri Syabbul, "Gender Inequality and Judicial Discretion in Muslim Divorce in Indonesia," Cogent Social Sciences 9, no. 1 (2023), https://doi.org/10.1080/23311886.2023.2206347.

4 Euis Nurlaelawati, "Muslim Women in Indonesian Religious Courts: Reform, Strategies, and Pronouncement of Divorce," Islamic Law and Society 20, no. 3 (2013): 242–71, https://doi.org/10.1163/15685195-0010A0003; Mufliha Wijayati et al., "Justice Brokers: Women's Experiences with Injustice and Dependence in the Divorce Process," Cogent Social

Studies by Nasution and Muchtar also indicate that the protection of child support in divorce rulings does not always keep pace with evolving judicial guidelines.[5] Recent research on legal consciousness underscores that litigation can serve as a space for the negotiation of agency, while simultaneously imposing procedural burdens on women.[6] As the existing literature has already elucidated the significance of the interplay between norms, institutions, social experience, this study does not treat these relationships as an unexplored area.

An issue that requires further clarification is the misalignment of authority across the various stages of divorce. The capacity to initiate legal proceedings, the authority to determine marital status, and the ability to derive actual benefits from a legal judgment are three distinct matters. This article bridges a normative study of the Quran with research on legal pluralism and access to justice to formulate a framework for the redistribution of divorce authority. This framework is not intended to replace the analysis of claim-making processes found in previous research—most notably that of Van Huis—but rather to expand upon it by incorporating the allocation of normative and institutional authority into the same analytical scope.[7] The research questions address: how Quranic norms regulate and limit the authority to divorce; how state law redistributes this authority through religious courts; and why access to divorce is insufficient to guarantee justice in the post-divorce phase. This study aims to elucidate these relationships through the examination of documents and a synthesis of existing published research.

The article argues that the judicialization of divorce does not eliminate private authority; instead, it restructures the relationship between the decisions made by the couple, institutional recognition, and the enforcement of rights. The state may restrict unilateral divorce while simultaneously establishing procedural requirements that necessitate specific resources to navigate. In the post-divorce phase, a judgment that recognizes certain rights still requires enforcement to yield tangible benefits. This argument positions Indonesia as a case study for understanding family law reform within a pluralistic legal order. By distinguishing between three dimensions of authority, this article offers an analytical tool for assessing shifts in power relations, without equating the mere

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Sciences 7, no. 1 (2021), https://doi.org/10.1080/23311886.2021.1966208; Stijn Cornelis Van Huis, "The Shadow of Legal Pluralism in Indonesian Islamic Courts : Child and Spousal Maintenance," The Indonesian Journal of Socio-Legal Studies 4, no. 1 (2024), https://doi.org/10.54828/ijsls.2024v4n1.4.

[5] 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* 20, no. 2 (2020): 361–84, https://doi.org/10.15408/ajis.v20i2.15702.

[6] Warnis et al., "Negotiating Justice in Litigated Divorce: Women's Legal Consciousness in Indonesian Religious Courts," *Al-Istinbath: Jurnal Hukum Islam* 11, no. 1 (2026): 243–70, https://doi.org/10.29240/jhi.v11i1.15780.

[7] Huis, "The Shadow of Legal Pluralism in Indonesian Islamic Courts : Child and Spousal Maintenance."

existence of rules, the volume of cases, or the formal validation of a divorce with substantive justice.

Legal pluralism provides a foundation for understanding that society is not governed by a single legal system alone. Merry draws attention to the coexistence of various normative orders and the relationships between them within social life.[8] This perspective is significant for research on divorce because state recognition of the dissolution of a marriage may differ from recognition by religious or familial circles. An individual might be considered separated by their community, yet not possess a legal divorce status recognized by the state. Conversely, someone who has obtained a court decree is not necessarily free from the demands or pressures of their social environment. An analysis of pluralism does not assume that every order possesses equal power. Courts hold the formal authority to establish legal status, while families, religious figures, and intermediaries can influence how individuals perceive their rights and formulate their claims.[9] This relationship does not cease at the courtroom door; Van Huis's research demonstrates how non-state norms intersect with the negotiation of maintenance (alimony/support) within judicial proceedings. Consequently, this article treats the court as a site where various sources of authority interact, rather than as an institution that entirely supplants religious law and social norms.

This article employs the term "judicialization" in a limited sense: the institutionalization of marriage dissolution through the courts as a prerequisite for recognition under state law. This definition does not imply secularization. Religious courts continue to process Islamic family law norms within the framework of state regulations. While judicialization alters who can generate legal consequences and which conditions must be met, it does not negate the role of the spouses or their communities in the divorce process. Legal agency refers to an individual's capacity to utilize rules and procedures to pursue their own interests. Felstiner describes the transformation of a harmful experience into the recognition of a problem, the attribution of responsibility, and the filing of a claim.[10] In the context of divorce, an experience of injustice does not automatically translate into a lawsuit; factors such as knowledge of one's rights, the ability to construct a legal narrative, and social support all influence this trajectory.

Thus, women's agency does not signify boundless freedom. An individual might actively choose divorce even when situated within circumstances that

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[8] Sally Engle Merry, "Legal Plurarism," *Law & Society Review* 22, no. 5 (1988): 869–96, https://doi.org/10.2307/3053638.

[9] Huis, "The Shadow of Legal Pluralism in Indonesian Islamic Courts : Child and Spousal Maintenance."

[10] William L.F. Felstiner, Richard L Abel, and Austin Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . .," *Law & Society Review* 15, no. 3–4 (1981): 631–54, https://doi.org/10.2307/3053505.

severely restrict their life choices. Nurlaelawati positions women as actors who leverage judicial procedures, while research on legal intermediaries suggests that such capacity may also depend on the involvement of other parties.[11] In this article, "authority" refers to a normatively or institutionally recognized capacity to influence legal decisions. Regarding the dimension of realization, the focus shifts from formal authority to the effective capacity to secure legal benefits. This distinction is necessary to ensure that the analysis does not conflate the right to initiate a divorce with the authority to adjudicate the case or the capacity to enforce the judgment. Based on this understanding, the redistribution of divorce authority is broken down into three interrelated dimensions: initiation, adjudication, and realization.

The dimension of initiation concerns the parties who have the capacity to commence divorce proceedings and assert legal claims. This dimension can be analyzed by examining who files the case, the legal pathways pursued, the grounds for divorce invoked, and the nature of the claims submitted. Furthermore, the dimension of adjudication refers to the authority to determine legal status and the consequences of a divorce. Analysis of this dimension encompasses the court's jurisdiction, evidentiary requirements, trial procedures, and the guidelines applied in granting rights to the parties involved. The dimension of realization, meanwhile, pertains to the capacity of a party—who has secured legal recognition—to actually enjoy the benefits of those rights. This dimension can be traced through provisions for payment, access to the enforcement of judgments, and evidence that the established rights have indeed been received. Together, these three dimensions form an analytical framework for understanding the redistribution of divorce authority based on documentary evidence, constructed from the ideas of Merry (1988), Felstiner (1981), and Indonesian socio-legal literature.

These three dimensions do not necessarily evolve in the same direction. Expanding the channels for initiation may increase an individual's opportunity to file a case, but it does not guarantee that a judge will grant all of their claims. Similarly, the formal granting of rights through a court judgment does not automatically prove that the entitled party has actually received the benefits of those rights. Therefore, this framework serves as a conceptual proposal—a tool for organizing and interpreting documentary evidence regarding the redistribution of divorce authority—rather than as a quantitative index or a tested causal theory.

METHOD

This study employs a qualitative socio-legal approach based on documents, incorporating a narrative synthesis of literature and descriptive statistics as

[11] Nurlaelawati, "Muslim Women in Indonesian Religious Courts: Reform, Strategies, and Pronouncement of Divorce"; Wijayati et al., "Justice Brokers: Women's Experiences with Injustice and Dependence in the Divorce Process."

supporting evidence. This approach links the content of legal norms to their social implications, which can be traced through published evidence. The unit of analysis encompasses the regulation of authority, the limitation of the abuse of rights, and the mechanisms for the recognition and fulfillment of rights within the context of Muslim divorce in Indonesia. The scope of this research is limited to divorces handled within the religious court system and does not generalize its findings to the entire legal regime governing marriage in Indonesia. The normative corpus includes Quranic verses: Surah al-Baqarah [2]: 227–232 and 241; Surah al-Nisa' [4]: 35; Surah al-Ahzab [33]: 28; and Surah al-Talaq [65]: 1–6. These verses were selected because they address decisions regarding the termination of marriage, reconciliation (ruju'), conflict resolution, the prohibition of causing harm, and economic obligations. The study utilizes a thematic-holistic approach as a tool for interpreting these norms, rather than as a substitute for socio-legal analysis.[12] The state documents examined include the Marriage Law, the Religious Courts Law, the Compilation of Islamic Law (KHI), Supreme Court Regulation (PERMA) Number 3 of 2017, as well as Supreme Court Circular Letters (SEMA) Number 1 of 2017, Number 3 of 2018, and Number 2 of 2019. The selection of these provisions is purposive—based on their relevance to the three analytical dimensions—rather than serving as an exhaustive inventory of all family law regulations.

Social data are drawn from two sources. First, the study utilizes the number of divorce cases—categorized into *cerai gugat* (divorce initiated by the wife) and *cerai talak* (divorce initiated by the husband)—filed in courts of first instance, as recorded in the Supreme Court's Annual Reports for 2024 and 2025. Percentages are calculated by dividing the number of cases for each type by the total number of both types of cases for the same year. This research does not equate the number of divorce cases filed with the number of divorces that have reached a final, legally binding status. It draws upon published research concerning women's agency, legal intermediaries, economic rights, judicial discretion, and legal consciousness—notably the works of Nurlaelawati (2013), Nasution and Muchtar (2020), Wijayati (2021), Ramadhita (2023), Wirastri and van Huis (2024), Van Huis (2024), and Warnis (2026). Sources were selected by searching for relevant titles and keywords across journal websites, academic repositories, and government portals. The synthesis relies on accessible publication data, including abstracts and available sections of the articles; this study does not constitute a systematic review or a meta-analysis.

The analysis proceeds in three stages. First, the documents are examined to identify the authorities empowered to act, the conditions under which such authority may be exercised, prohibitions against harmful actions, and the obligations that arise following a divorce. Second, these provisions are

[12] Habudin, "Evaluating the Thematic-Holistic Method in the Reform of Muslim Family Law (An Analysis of Khoiruddin Nasution's Thought)."

categorized according to the dimensions of initiation, adjudication, and realization. Third, the regulatory patterns are compared against official statistics and existing research to identify both alignments and tensions between formal law and social conditions. The study distinguishes between findings derived from legal texts, indicators of court usage, and interpretations of secondary evidence. It does not involve interviews, courtroom observations, or an independent examination of a sample of individual court rulings. Consequently, this article does not measure the effectiveness of enforcement, the prevalence of social stigma, or the causal relationship between legal reforms and divorce.

RESULT AND DISCUSSION

Limitations on Divorce Authority within Quranic Norms

A thematic reading reveals that the verses concerning divorce do not merely govern the validity of terminating a marriage; they also regulate how spouses exercise the authority they possess. Surah al-Baqarah [2]:228–229, for instance, contains provisions regarding reconciliation (ruju'), the rights and obligations of the spouses, limitations on revocable divorce (talak), and the possibility of dissolution through a compensatory payment (khul'). These verses delineate a distinct configuration of authority for husbands and wives, while simultaneously placing constraints on how that authority is exercised. In this context, the limitations on divorce do not eliminate the differentiation of authority; rather, they narrow the scope for exercising such authority without normative accountability.

Surah al-Baqarah [2]:231 prohibits maintaining a marital relationship with the intent to harm one's spouse. This prohibition is significant because the abuse of authority can occur not only when a divorce is initiated, but also when the opportunity for reconciliation is exploited to exert control over the other party. Surah al-Baqarah [2]:232 forbids obstructing remarriage after the waiting period (*iddah*) has concluded, under the circumstances specified in the verse. Both provisions demonstrate that the control exerted over women's lives is an aspect addressed by the norms governing divorce. This interpretation does not imply that all historical divorce practices were uniform, nor does it suggest that these limitations automatically eradicate subordination.

Surah al-Talaq [65]:1–6 links divorce to the calculation of the waiting period (iddah), the requirement for witnesses, fair treatment, housing, and financial maintenance, as stipulated in the text. These provisions indicate that the termination of a marital relationship does not immediately extinguish all responsibilities between the spouses. Similarly, in Surah al-Baqarah [2]:241, the provision of a gift or settlement for a divorced woman is likewise framed in terms of what is fair and appropriate (ma'ruf). Meanwhile, Surah al-Nisa' [4]:35 situates the resolution of family conflicts within a mechanism that involves a third party. An interpretation of this verse yields principles of accountability and the

prevention of harm, though it does not equate modern judicial systems directly with this historical mechanism.

From the perspective of legal anthropology, Sodiqin interprets the Quranic provisions on divorce as part of an interaction between religious norms and the social structure of the society that received the revelation.[13] This article maintains a distinction between context-bound instruments and broader protective orientations as a means of understanding legal change. However, this distinction is not intended to suggest that all historical provisions are necessarily subject to change, nor that justice has already been fully realized. The focus lies on how norms constrain the exercise of authority and provide a basis for accountability.

Table 1. Configuration of authority within Quranic norms on divorce

Source	**Key provisions**	**Socio-legal implications**
QS 2:228–229	Reconciliation, limits on divorce, and redemption (khul‘)	The authority of spouses differs, yet it is not without limits.
QS 2:231–232	Prohibition against reconciling to cause harm; prohibition against obstructing remarriage	Limitations on control over one’s spouse.
QS 65:1–6; 2:241	The waiting period (*‘iddah*), witnesses, housing, and financial provision	Accountability and the continuation of economic responsibility.
QS 4:35; 33:28	Conflict resolution and amicable separation	An orientation toward resolving conflicts and maintaining propriety within the context of the verses.
QS 2:228–229	Reconciliation, limits on divorce, and redemption (khul‘)	The authority of spouses differs, yet it is not without limits.
QS 2:231–232	Prohibition against reconciling to cause harm; prohibition against obstructing remarriage	Limitations on control over one’s spouse.

Source: *thematic reading of Quranic verses and Sodiqin (2014).*

Table 2 shows that the norms governing divorce encompass two elements that must be analyzed in tandem: the distribution of authority and the limitations placed on the exercise of that authority. Focusing solely on who holds the right to initiate a divorce (or pronounce talak) risks overlooking the need to

[13] Sodiqin, “Qur’anic Reform in Divorce Law: A Study in the Anthropology of Islamic Law.”

protect vulnerable parties. Conversely, focusing exclusively on protection without examining the distribution of authority risks obscuring power imbalances between the spouses. These findings serve as a starting point for viewing family law reform as a reorganization of authority—one that nonetheless requires robust protective mechanisms.

The Judicialization of Divorce and the Reorganization of Authority in Indonesia

Indonesian marriage law establishes the court as the institution that determines state recognition of a divorce. Article 39 of the Marriage Law stipulates that a divorce may only take place before a court, following unsuccessful attempts at reconciliation and upon establishing sufficient grounds that the couple can no longer live together in harmony. This provision alters the legal consequences of private decisions; the mere intent of one spouse does not automatically result in a state-recognized divorce. Article 65 of the Law on Religious Courts and Article 115 of the Compilation of Islamic Law (KHI) reinforce these regulations for Muslim couples.

Although both parties have avenues to initiate a divorce, the law prescribes different procedures. Article 66 of the Law on Religious Courts governs a husband's application to hold a hearing for the pronouncement of talak, while Article 73 governs a divorce suit filed by a wife (or her legal representative). In the case of talak, court authorization is followed by the formal pronouncement of talak, as per Article 70. In the case of a divorce suit (cerai gugat), a final and binding court judgment brings about the divorce, in accordance with Article 81. This distinction demonstrates that the institutionalization of divorce does not establish a single, identical procedural path for both parties.

In terms of initiation, this framework grants women the standing of a plaintiff, enabling them to bring family conflicts into the legal sphere. In terms of adjudication, the state delegates the assessment of the grounds and requirements for divorce to the courts. Consequently, this shift in authority is not merely a transfer of power from men to judges. The husband retains a role in the pronouncement of talak (divorce), the wife gains a procedural standing as the plaintiff, and the judge holds the authority to evaluate the basis for and the consequences of the divorce. This reorganization establishes a new distribution of authority, with procedural variations that remain contingent upon the specific type of case.

Table 3. Divorce cases filed at first-instance religious courts, 2024–2025

Type of case	2024	2025	Proportion 2024	Proportion 2025
Divorce initiated by wife	360,151	401,948	76.9%	77.7%

Divorce initiated by husband	108,352	115,649	23.1%	22.3%
Total	468,503	517,597	100%	100%

Source: Supreme Court of the Republic of Indonesia (2025, 2026), 2024 and 2025 Annual Reports, tables on the classification of first-instance religious civil cases; percentages calculated by the author.

Table 3 shows that divorce initiated by the wife (cerai gugat) dominated the cases filed over the two-year observation period. The number of such cases rose from 360,151 in 2024 to 401,948 in 2025, while divorce initiated by the husband (*cerai talak*) increased from 108,352 to 115,649. In both years, more than three-quarters of the divorce cases filed were initiated by the wife. These descriptive findings indicate that the legal avenue available to women is not merely a theoretical possibility under the law, but one that is utilized on a large scale. However, these data only measure the filing of cases; they do not identify who socially initiated the separation, whether the filing was made of one's own free will, or how economic claims were adjudicated.

Nurlaelawati highlights the importance of examining the strategies and narratives employed by women when using the courts to end a marriage.[14] This provides a basis for interpreting the prevalence of wife-initiated divorces as a form of legal mobilization that requires further explanation, rather than as a simple, singular metric of emancipation. The rise in the number of such filings may be linked to various circumstances, including conflict, abandonment, shifts in legal awareness, and access to services. The statistics used in this article do not allow for the disentanglement of these different factors. Consequently, while the high volume of court usage supports an analysis of how divorces are initiated, it cannot address the extent to which rights are effectively realized.

The distinction between the recognition and the realization of post-divorce rights

Post-divorce protection serves as a critical test for the reform of family law. Article 41 of the Marriage Law governs the consequences of divorce, including parental obligations toward children and the court's authority to mandate that a former husband provide financial support or to establish obligations for a former wife. Under the Compilation of Islamic Law (KHI), Article 149 outlines various obligations arising from talak (divorce initiated by the husband), including mut'ah (a compensatory gift) and nafkah iddah (maintenance during the waiting period), subject to specific conditions. Article 152 stipulates the right to nafkah iddah, with an exception for a wife deemed nusyuz (disobedient, recalcitrant). This framework demonstrates that legal status and the

[14] Nurlaelawati, "Muslim Women in Indonesian Religious Courts: Reform, Strategies, and Pronouncement of Divorce."

circumstances surrounding a divorce can influence the granting of economic rights.

Developments in judicial guidelines reflect an effort to expand such protections. Supreme Court Regulation (PERMA) Number 3 of 2017 provides guidance for judges presiding over cases involving women who come into contact with the legal system. Furthermore, Supreme Court Circular (SEMA) Number 3 of 2018—through the Religious Chamber—allows for the granting of mut'ah and *nafkah iddah* to a wife in cases of cerai gugat (divorce initiated by the wife), provided she is not proven to be nusyuz. This development is significant because the provision of economic rights is no longer restricted solely to cases initiated by the husband. Wirastri and van Huis categorize these judicial guidelines and court rulings as part of the evolution of family law reform, occurring alongside legislative changes.[15] From the perspective of the sociology of law, these reforms indicate that the judiciary does not merely apply the law; it also plays a role in shaping how protective norms are translated into procedural practice.

Nevertheless, the granting of a right and the actual payment of that right remain two distinct events. SEMA Number 1 of 2017 allows for the inclusion of specific payment obligations to be fulfilled prior to the formal pronouncement of talak. Similarly, SEMA Number 2 of 2019 permits the inclusion of payment obligations to be met before a defendant collects their divorce certificate in cases of cerai gugat, provided that such claims are explicitly articulated within the posita (the factual basis) and petitum (the specific demands) of the lawsuit. This mechanism utilizes procedural stages to encourage payment.[16] The divergence in the timing of these payment points also highlights a design issue: if the obligated party has no incentive to collect the divorce decree, the effectiveness of a mechanism tied to the retrieval of such documents becomes questionable. This article identifies this potential design flaw, rather than drawing conclusions about the extent of non-compliance occurring in practice.

Secondary evidence underscores the importance of distinguishing between the successful attainment of divorce status and the provision of economic protection. In a study involving 150 religious court rulings in East and Central Jakarta between 2015 and 2017—supplemented by interviews—Nasution and Muchtar reported that only 14% of the rulings in their sample included an obligation for the father to provide child support.[17] While this figure does not represent all courts in Indonesia or the current situation, it demonstrates that protective provisions are not always reflected in court rulings within the specific

[15] Wirastri and Huis, "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms."

[16] Nasution and Muchtar, "Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts."

[17] Wijayati et al., "Justice Brokers: Women's Experiences with Injustice and Dependence in the Divorce Process."

context of the study.[18] Furthermore, even when a ruling includes a support obligation, its actual fulfillment remains a separate matter that must be substantiated.

Wijayati points out that while legal intermediaries can assist women in navigating the divorce process in East Lampung, they may also limit the women's control over their own claims. Consequently, access mediated by third parties does not necessarily lead to greater bargaining power. Research by van Huis also links the vulnerability of support claims to the persuasive weight of court rulings within non-state normative environments. Both studies illustrate that social relations surrounding the court do not cease to function once a case has been filed; rather, they can shape claims, negotiations, and the likelihood of securing one's rights following a judgment.

Table 4. Synthesis of evidence regarding the limits of access to justice

Source	Reported evidence	Related dimension
Nurlaelawati (2013)	Women's strategies and narratives in utilizing the courts to obtain a divorce.	Initiation
Nasution & Muchtar (2020)	Among 150 examined rulings, 14% include a provision for child support to be paid by the father.	Adjudication
Wijayati (2021)	Intermediary assistance can facilitate the process while simultaneously reducing autonomy regarding claims.	Initiation and adjudication
Ramadhita (2023)	Judicial discretion in relation to efforts to address procedural inequalities.	Adjudication
van Huis (2025)	Social norms influence the negotiation of support claims both inside and outside the courtroom.	Adjudication and realization
Warnis (2026)	Litigation can expand agency while also imposing administrative and emotional burdens.	Initiation and adjudication

Source: A narrative synthesis of published research; not the result of new interviews or the coding of court rulings by the author.

[18] Huis, "The Shadow of Legal Pluralism in Indonesian Islamic Courts : Child and Spousal Maintenance."

The redistribution of authority is not synonymous with the redistribution of social power.

The first and second findings reveal a complex relationship between religious norms and state law. Quranic norms constrain the exercise of the authority to divorce and demand propriety, while state regulations provide an institutional framework for the formal validation of divorce. These two layers need not be framed as mutually exclusive traditions and modernities. Courts can serve both as a means to limit unilateral actions and as a space where religious norms are reinterpreted. From the perspective of Sally Engle Merry, legal change should be understood through the interaction of various normative orders, which do not necessarily function in a uniform manner.[19]

The contribution of the "redistribution of authority" framework lies in its ability to distinguish between shifts in formal status and changes in bargaining power. A husband wishing to end a marriage cannot rely solely on his own intent to secure state recognition. Simultaneously, a wife gains a pathway to initiate a divorce suit, without her access being contingent upon her husband's consent. However, the ability to bring a case to court may depend on factors such as procedural knowledge, financial costs, access to legal aid, and the availability of evidence. While authority may shift or become distributed, the resources required to exercise that authority do not necessarily change to the same degree. In this context, an analysis of shifts in authority must avoid a linear narrative that posits a progression from subordination to equality.

Normative findings regarding the limitations on talak (unilateral divorce by the husband) do not provide evidence of the lived experiences of all women during the early Islamic period. Similarly, statistics on divorce initiated by wives (cerai gugat) do not prove that contemporary Indonesian women have attained an equal economic standing. This research views legal change as a process open to negotiation, rather than a stage of progress that inevitably yields justice. This approach also distinguishes between the historical context of the Quran and the institutional context of Indonesia. The relationship between the two is analytical in nature, rather than a claim of a proven, direct historical development.

Women's agency and the ambivalence of legal mobilization

The prevalence of divorce petitions initiated by women in case statistics indicates that they frequently utilize the avenues provided by state law. However, the significance of such actions cannot be determined solely by the number of filings. Initiating a divorce can represent an act of self-determination—a decision-making process regarding one's own life—while simultaneously serving as a response to conflict or neglect that has constrained one's available choices. Felstiner's perspective on the transformation of disputes helps clarify that the act of filing a petition is part of a broader process of claim formation, rather than

[19] Merry, "Legal Plurarism."

the origin of all family-related problems. Before a petition is filed, personal experiences must first be perceived as issues that can be brought before legal institutions.[20]

Throughout this process, assistance from others may facilitate access, yet it can also shape the content of the claims being made. The findings of Wijayati and Warnis suggest that agency should be understood as a relational capacity.[21] Women need not be entirely autonomous to possess agency; rather, the support they receive must be evaluated based on the extent to which they remain able to define their own interests. An analytical implication of this is that access to the courts and control over the substance of one's claims must be treated as distinct concepts. An individual might successfully file a petition without being fully aware of all her legal rights, or without the capacity to articulate the specific claims necessary to protect her interests.

The same logic applies to mediation. Efforts to resolve conflict should not be measured solely by the number of couples who choose to remain married. In cases involving violence or imbalanced power dynamics, an emphasis on reconciliation—without due regard for safety—risks placing vulnerable parties in a disadvantaged or precarious position. The principle of "do no harm," when applied to the interpretation of divorce norms, can serve as an ethical framework for evaluating such processes. This article does not attempt to measure the outcomes of mediation; instead, it argues that the social circumstances of the couple must be integrated into any assessment of procedural justice.

From procedural justice to the realization of rights

A third finding underscores that justice does not end when a court grants a divorce. In cases involving maintenance (alimony or financial support), the distinction between the recognition of a right and its actual realization is critical. A court ruling provides the legal basis for a claim, but its tangible benefit depends on actual payment or enforcement. When obligations go unfulfilled, women may face further challenges, even after securing a favorable judgment. As this study lacks data on enforcement, it does not measure the extent to which such rights are realized; however, it highlights the necessity of distinguishing between indicators of adjudication and indicators of realization.

This interpretation aligns with Van Huis's research, which situates the process of claiming maintenance within the interplay between the state's legal order and social norms.[22] This article further explores how the allocation of normative authority and the design of divorce procedures relate to different

[20] Felstiner, Abel, and Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . ."

[21] Wijayati et al., "Justice Brokers: Women's Experiences with Injustice and Dependence in the Divorce Process"; Warnis et al., "Negotiating Justice in Litigated Divorce: Women's Legal Consciousness in Indonesian Religious Courts."

[22] Huis, "The Shadow of Legal Pluralism in Indonesian Islamic Courts : Child and Spousal Maintenance."

stages of the claims process. Consequently, a policy might facilitate the initiation of a claim without leading to a corresponding shift in adjudication or actual realization. Conversely, guidelines that expand the scope for granting rights may have limited practical significance if the mechanisms for enforcement remain inaccessible to those seeking justice. This relationship serves as an analytical proposition for further testing, rather than a causal conclusion derived from the data presented in this article.

In practical terms, this analysis points to three requirements. First, legal information provided prior to filing a case should encompass economic rights, not merely the procedures for obtaining a divorce. Second, the adjudication process should account for disparities in the social circumstances and capacities of the parties involved. Third, the evaluation of post-divorce protection must distinguish between rulings that establish rights, rulings that are enforceable, and the rights that are ultimately realized. These three requirements do not replace existing legal provisions; rather, they identify the indicators necessary to assess the social impact of procedural reforms.

Contributions to the sociology of law and research limitations

This study contributes to the field of the sociology of law by linking the formation of divorce norms, the institutionalization of authority, and the distribution of legal benefits. The "initiation–adjudication–realization" framework clarifies where issues arise when a change in one stage is not accompanied by corresponding changes in the others. This contribution serves as a conceptual synthesis; it does not claim to have discovered an entirely new process of legal claiming, as the socio-legal literature has long examined the transformation of disputes and legal pluralism. The novelty offered here lies in using these three dimensions to connect the interpretation of Quranic norms and shifts in institutional authority with the issue of post-divorce justice within a single analytical framework.

Its international relevance lies in the questions it raises for various societies with pluralistic legal orders: how the state limits private authority, how actors access institutions, and under what conditions legal recognition yields social benefits. Indonesia provides an illustration that the strengthening of the judiciary's role and the preservation of religious normative sources can occur simultaneously. However, these specific findings from Indonesia cannot be generalized to other countries without comparable institutional analysis and data.

The study's limitations include the specific corpus of regulations selected, a non-systematic synthesis of the literature, and case statistics covering only a two-year period. Existing published research varies in terms of location, timeframe, and methodology, making it impossible to aggregate these findings into a national estimate. Furthermore, this study lacks data on actual payments, the experiences of women who do not access the courts, or divorces that occur

outside of state procedures. Consequently, future empirical research should compare the reasoning and rulings in talak (husband-initiated) and cerai gugat (wife-initiated) divorce cases, and link these to data on the actual enforcement of rights. Such an approach would allow for a more robust assessment of the relationship between institutional authority and substantive justice.

CONCLUSION

The institutionalization of divorce through religious courts in Indonesia has reorganized the authority to dissolve marriages, yet it does not automatically eliminate social inequalities between spouses. Quranic norms—as examined here—integrate a differentiation of authority with restrictions on harmful conduct and the assignment of economic responsibilities. State law governs divorce through the court system, providing avenues for both husbands and wives, though the procedures for each are not identical. The prevalence of divorce initiated by wives (cerai gugat) in cases filed between 2024 and 2025 highlights a significant, large-scale utilization of legal channels by women. However, these statistics do not reveal the success rate of such claims or the extent to which rights are actually fulfilled following a divorce. Previous research underscores the critical roles played by intermediaries, bargaining power, and social conditions in the process of securing one's rights.

This article proposes a framework for the redistribution of divorce authority that distinguishes between initiation, adjudication, and realization as interconnected dimensions. This distinction broadens the scope for evaluating family law reforms—shifting the focus from the mere availability of procedures to the actual capacity of those seeking justice to derive legal benefits. Consequently, any assessment of protections for women must account for the rights that can be claimed, the rights granted by the court, and the rights that are ultimately realized. Thus, the sociology of law serves not only to explain how courts formalize divorce, but also to clarify why shifts in legal authority must be distinguished from changes in the distribution of power within social life.

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