

Gender Equality and Divorce: Legal Guarantees of Women's Rights and Their Misuse in Traditional Muslim Communities

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ABSTRACT

The divorce rate in Madura over the past three years has increased to thousands of cases. Notably, 70% of the causes can be attributed to divorce suits filed by wives. This indicates that Madura, as a traditional Muslim community, has become more sensitive to and aware of the importance of women's and wives' rights within the household. As a result, husbands must take full responsibility for their families. This study employs empirical legal research methods within a socio-legal and anthropo-legal approach and was conducted in four districts in Madura. The results show that women's awareness of their rights as wives in the four districts of Madura has increased significantly. This factor has also led wives to file for divorce because their husbands have not fully fulfilled their obligations. These lawsuits are interesting because they can be comprehensively and contextually understood based on religious arguments against divorce and the position of women who file for divorce. This study contributes to efforts to promote gender equality in the household by ensuring that the rights and obligations of husbands and wives are fully upheld, as these rights are guaranteed in the constitution, positive law, and Islamic law. Any form of neglect in fulfilling these rights has the potential to demean women and ultimately lead to divorce.

Introduction

Over the past six years, the divorce rate in Indonesia has increased. This is based on data from the Central Bureau of Statistics, which again released figures on the number of divorces in Indonesia in 2023, which reached 463,654 cases. Although this figure is lower than in 2022 (516,344), which reached its peak, it has increased dramatically compared with previous years, particularly for 2017-2023.¹ This

¹ Monavia Ayu Rizaty, "Data Jumlah Kasus Perceraian Di Indonesia Hingga 2023," *DataIndonesia.Id*, 2024, <https://dataindonesia.id/varia/detail/data-jumlah-kasus-perceraian-di-indonesia-hingga-2023>.

indicates that household resilience in Indonesia is severely challenged, particularly in maintaining marital integrity.²

The notable thing about these cases is that lawsuits from wives account for most divorce cases. In 2022, for example, cases of divorce filed by wives reached 388,358, accounting for 75.21% of all divorce cases that year. Meanwhile, divorce cases amounted to 127,986, representing 24.78%.³ This indicates that a husband's burden is no longer accessible, as he must conduct himself well in accordance with his responsibilities as head of the household.⁴ Husbands must be wiser and more responsible in leading the family, in accordance with their obligations, which are determined by religious and state law.

Divorce cases also significantly increased in the four districts of Madura. Each region experienced an increase in divorces, with the rate rising annually.⁵ The cause is also almost the same as the majority of divorce cases nationally, which is dominated by the wife's lawsuit against her husband. What is no less notable is that economic problems and domestic disputes predominate in the lawsuit. Wives in Madura file for divorce due to their husbands' attitudes, indicating that they can no longer fulfill their responsibilities as heads of the household, particularly in meeting the family's economic needs.⁶

The reasons for divorce cited by wives in Madura are quite 'bold' when viewed from the perspective of religious traditions on this salt island, where the majority adhere to traditional Islamic traditions.⁷ This community still considers divorce cases, although a permissible matter in religion, an act that God highly hates.⁸ This understanding seems to have become standard teaching where divorce is regarded as a family disgrace that must be avoided because of the belief that God does not

² Dahlia Haliah Ma'u, Wagiyem Wagiyem, and Rita Mustika Rahayu, "The Construction of Cerai Manis (Preferred Divorce) on the Border of Indonesia and Malaysia Communities," *Al-Adalah* 20, no. 1 (June 27, 2023): 19, <https://doi.org/10.24042/adalah.v20i1.16518>.

³ Cindy Mutia Annur, "Kasus Perceraian Di Indonesia Melonjak Lagi Pada 2022, Tertinggi Dalam Enam Tahun Terakhir," [databoks.katadata.co.id](https://databoks.katadata.co.id/datapublish/2023/03/01/kasus-perceraian-di-indonesia-melonjak-lagi-pada-2022-tertinggi-dalam-enam-tahun-terakhir), 2023, <https://databoks.katadata.co.id/datapublish/2023/03/01/kasus-perceraian-di-indonesia-melonjak-lagi-pada-2022-tertinggi-dalam-enam-tahun-terakhir>.

⁴ Eko Hidayat and Siti Mahmudah, "Understanding and Awareness of Gender Equality in Divorce and Its Contribution to Islamic Family Law Reform in Indonesia," *SMART: Journal of Sharia, Traditon, and Modernity* 2, no. 1 (June 24, 2022): 59, <https://doi.org/10.24042/smart.v2i1.14625>.

⁵ Abd Hannan and Zainuddin Syarif, "The High Rate of Judicial Divorce among Women of Lower Education in Madura-Indonesia: A Gender Perspective," *PALASTREN: Jurnal Studi Gender* 16, no. 1 (June 26, 2023): 29, <https://doi.org/10.21043/palastren.v16i1.15286>.

⁶ Euis Nurlaelawati, "Women's Financial Rights after Divorce in Indonesia," in *Women and Property Rights in Indonesian Islamic Legal Contexts*, Leiden Stu (Leiden, The Netherlands: BRILL, 2018), 89–106, https://doi.org/10.1163/9789004386297_007.

⁷ Muwaffiq Jufri et al., "Religion and State in Islamic Constitutional Law: The Role of Pesantren in Strengthening Symbiotic Islam and the State in Madura," *Justicia Islamica* 21, no. 2 (November 6, 2024): 221–46, <https://doi.org/10.21154/justicia.v21i2.9283>.

⁸ Basar Dikuraisyin et al., "Economic Underpinnings of Early Marriage: The Tengka Tradition among the Madurese," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (June 30, 2024): 93–106, <https://doi.org/10.14421/ahwal.2024.17106>.

favour it. As much as possible, divorce should not be done for any reason because maintaining the integrity of marriage is far more noble in God's sight than divorce.⁹

At the same time, the many attitudes among husbands who do not fulfill their responsibilities as family leaders mean that arguments about husbands' obligations, which should also be widely publicized, receive little attention.¹⁰ From a religious perspective, recommendations regarding implementing the duties and responsibilities of husbands as family leaders should be more massive because the good or bad condition of marriage is determined by whether the household leader can care for and protect it. Husbands and wives have responsibilities in caring for and maintaining the marriage, but the most significant responsibility still lies with the husband.

This phenomenon suggests an imbalance in how wives and husbands are viewed, even though both should be equal.¹¹ Each has the same rights and obligations to ensure the continuation of the marriage. For this reason, since the emergence of the idea of human rights, the position of wives has been expressly stated to be equal before and after marriage, as stipulated in Article 16 (1) of the Universal Declaration of Human Rights (UDHR).¹² This assertion is well-founded, as equality and balance are necessary for a marriage to endure.

This study aims to address a research gap that prior researchers have not explored. Several previous studies have mainly discussed the phenomenon of high divorce rates and the fulfillment of women's rights in marriage. For example, Maimun's study examined women's rights in divorce. This study found that, even after the marriage bond has been severed, certain rights remain that the husband must fulfill toward his ex-wife, particularly those related to child support.¹³ Meanwhile, other studies in this area, such as that conducted by Martina Purna Nisa, discuss domestic violence as a cause of violence. This study aims to compare domestic violence, which is used as a cause for divorce in Indonesia, Malaysia, and the Maldives. Martina mentions that there are similarities in the regulations between the three countries, which all regulate the reasons for domestic violence used as

⁹ Ayesha Gul et al., "Divorce: Causes and Consequences in Islamic Perspective," *PalArch's Journal of Archaeology of Egypt / Egyptology* 18, no. 4 (2021): 6136–51, <https://doi.org/https://archives.palarch.nl/index.php/jae/article/view/7236>.

¹⁰ Rachel Rinaldo, Eva F. Nisa, and Nina Nurmila, "Divorce Narratives and Class Inequalities in Indonesia," *Journal of Family Issues* 45, no. 5 (May 2, 2024): 1195–1216, <https://doi.org/10.1177/0192513X231155657>.

¹¹ Ulin Na'mah et al., "Reducing the Divorce Rate in the Religious Courts Through Cultivating Egalitarian Relationships," *Khazanah Hukum* 6, no. 1 (April 26, 2024): 81–97, <https://doi.org/10.15575/kh.v6i1.34368>.

¹² Kees Waaldijk, "The Right to Marry as a Right to Equality," in *Furthering the Frontiers of International Law: Sovereignty, Human Rights, Sustainable Development* (Leiden, The Netherlands: Brill | Nijhoff, 2021), 457–72, https://doi.org/10.1163/9789004459892_024.

¹³ Maimun Maimun, "The Women's Rights in Divorce and Gender Equality Discourse in The Dynamics of Divorce in Madura," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 27, 2022): 468, <https://doi.org/10.22373/sjkh.v6i1.12804>.

grounds for divorce.¹⁴ Research was also conducted by Sofia Mubarokah Sa'bana, who reported on the increasing number of divorces attributable to husbands' negligence and inability to serve as family leaders, and their impact on children's psychological, social, and educational development.¹⁵

Previous studies have also examined women's empowerment as a means of promoting gender equality within the family. For example, a study by Ishraq Hassan compared the progress of gender recognition and empowerment in Bangladesh and the United Kingdom and their relationship with the increasing divorce rate. Hassan explained that the progress in human rights in Bangladesh was more promising than in the United Kingdom, which he considered relatively stagnant.¹⁶ Meanwhile, Susi Susilawati et al. discuss gender inequality in divorce traditions, attributing it primarily to community labelling. This labelling is inaccurate because it has abandoned the tradition of easy divorce, reflecting the community's recognition of the importance of maintaining household integrity as a form of gender equality.¹⁷

The five studies discuss divorce and its relationship with gender equality. However, none of the five studies discusses the causes of divorce in the form of the failure of the husband's figure to uphold the wife's rights in the household, especially the husband's obligation to fulfill the economic needs of the family, which turns out to be the cause of many divorces in Madura. The most similar study is Maimun's research on the enforcement of gender equality in divorce cases in Madura. Nevertheless, this research focuses on the enforcement of women's rights following divorce. Meanwhile, this paper focuses on efforts to implement women's rights as a cause of divorce. The Novelty of this study is to reveal the facts about the promotion of gender equality for women in Madura in divorce cases where Madurese women choose divorce as a last resort to stop all practices of injustice and violence that occur in households where women are often the target of injustice and domestic violence.

Methods

This study uses empirical legal research methods with a socio-legal and anthropological-legal approach. The socio-legal approach is employed because this study aims to examine the responses to and implementation of legal regulations, in

¹⁴ Martina Purna Nisa, "Critical Review of Domestic Violence as Reason for Divorce: Comparison of Divorce Laws in Indonesia, Malaysia and the Maldives," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 16, no. 1 (June 22, 2021): 1–26, <https://doi.org/10.19105/al-lhkam.v16i1.4292>.

¹⁵ Sofia Mubarokah Sa'bana and Rusdiana Navlia, "Tingginya Angka Cerai Gugat Di Kabupaten Sumenep & Dampaknya Bagi Anak," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 5, no. 2 (December 31, 2023): 202–23, <https://doi.org/10.19105/al-manhaj.v5i2.13211>.

¹⁶ Ishraq Hassan, "Empowering Women: Understanding Divorce, Equality, and Competition between Genders," *Integrated Journal for Research in Arts and Humanities* 3, no. 5 (September 30, 2023): 203–16, <https://doi.org/10.55544/ijrah.3.5.19>.

¹⁷ Susi Susilawati et al., "Manifestations of Gender Injustice in Divorced Marriages: The Kabalutan Tradition," *Jambura Law Review* 5, no. 1 (January 30, 2023): 136–55, <https://doi.org/10.33756/jlr.v5i1.17722>.

the context of constitutional guarantees, positive law, and Islamic law, regarding equality between husband and wife in the household in Madurese society. Meanwhile, the anthropo-legal approach is employed because this study seeks to understand the legal traditions of the Madurese community, one of Indonesia's traditional Muslim communities, in relation to the Madura legal tradition and its efforts to guarantee equality between husband and wife within the household. This approach is also used to determine whether these legal teachings or traditions affect the divorce rate across the four districts of Madura. This research was conducted in four districts in Madura: Bangkalan, Sampang, Pamekasan, and Sumenep.

The data in this study were obtained through interviews and research into divorce decisions in four districts in Madura. Interviews were conducted with religious leaders, community leaders, several divorce petitioners, and religious court officials. Therefore, the prescriptive analytical method was used as the data analysis method in the hope that this study would be able to reveal the causes of divorce in detail, the aspects of traditional Muslim culture that influence the inequality of the positions of husbands and wives in the household, the level of awareness of Madurese women regarding equality and human rights in the household, and legal ideas and regulations to resolve the issue of inequality between husbands and wives in the household in the future.

Discussion

Gender Equality in Marriage from the Perspective of Indonesian Positive Law

The primary purpose of marriage is to create a family order that is *sakinah, mawaddah wa-rahmah*, meaning that by getting married, the wife and husband can feel peaceful and full of love.¹⁸ Humans can live calmly, peacefully, and serenely because life partners accompany them through good times and difficult times. This togetherness will eventually give birth to love and affection between the two.¹⁹ This affection arises when both feel comfortable and peaceful in household life.

This sense of peace, comfort, and love will be achieved when each husband and wife are equally responsible for carrying out their obligations in the household.²⁰ Household harmony will be achieved only if each partner's rights and responsibilities are recognized and balanced according to their respective capacities. However, households can also be disharmonious if one partner considers themselves the

¹⁸ Wahyu Abdul Jafar and Iim Fahimah, "The Concept Of Munakahat Fiqh; Role Of Husband And Wife In Forming A Samara Family (Sakinah, Mawadah, Waromah) Version Of Dhau Al-Mishbah Fi Bayani Ahkam An-Nikah By KH. Hasyim Asy'ari," *International Journal of Educational Research & Social Sciences* 3, no. 2 (April 28, 2022): 832–43, <https://doi.org/10.51601/ijersc.v3i2.309>.

¹⁹ Acendra Agusta, Mohammad Ali Sajjad, and Miftahudin Azmi, "Legal Issues of Ganti Tikar Marriage in Bugis Wajo Custom in East Tanjung Jabung Regency," *Trunojoyo Law Review* 6, no. 1 (February 29, 2024): 142–58, <https://doi.org/10.21107/tr.v6i1.23947>.

²⁰ M. Ssenyonjo, "Women's Rights to Equality and Non-Discrimination: Discriminatory Family Legislation in Uganda and the Role of Uganda's Constitutional Court," *International Journal of Law, Policy and the Family* 21, no. 3 (December 1, 2007): 341–72, <https://doi.org/10.1093/lawfam/ebm010>.

dominant partner and downplays their partner's role in marital relations. An attitude of dominance will only perpetuate inequality within the household, particularly in the fulfillment of one's partner's rights. It is this relational inequality that often leads to divorce.

The concept of the balance between rights and obligations in marriage has a solid and transparent legal basis in both Indonesian positive law and Islamic law. In positive law, equality and equity are regulated in the Indonesian Constitution under Article 28H (2), which guarantees freedom and equal benefits to promote equality and equity.²¹ In addition, the previous article guarantees that there shall be no discrimination in any matter, including based on gender. This guarantee is reflected in Article 28B (2) and Article 28G (1) of the 1945 Constitution of the Republic of Indonesia.²² Meanwhile, in constitutional law, the balance of rights and obligations in marriage is reflected in Article 31(1) of Law No. 7 of 1974 on Marriage (Marriage Law), which explicitly recognizes the equality and balance of positions between husband and wife. This confirms that the state also respects women by allowing them to occupy positions equal to those of men. Thus, under this regulation, there is no basis to demean women's status within the household, as each partner plays an equal role in maintaining household harmony.

Although the article above regulates the balance of the position of wife and husband, it is unfortunate that the follow-up regulation reduces this equality and balance with the existence of Article 34 of the Marriage Law,²³ which divides the roles of wife and husband.²⁴ In this article, the husband's role is directed towards the obligation to protect and fulfill all household needs. In contrast, the wife's role is directed more towards managing the internal affairs of the household.²⁵ Against this regulation model, there is an opinion that the regulation is intended to divide the priority roles that need to be carried out by each partner. The husband's position is the most demanding because he is responsible for ensuring the household's

²¹ Malika Rajan Vasandani, Dwi Putra Nugraha, and Susi Susantijo, "Affirmative Action Study on the Political Rights of Women in the Indonesian Constitution," *Constitutional Review* 8, no. 1 (May 31, 2022): 62, <https://doi.org/10.31078/consrev813>.

²² Tanto Lailam, Putri Anggia, and M. Luthfi Chakim, "The Proportionality Test Models of Competing Rights Cases in the Civil and Common Law Systems: Lesson to Learn for Indonesia," *Hasanuddin Law Review* 10, no. 2 (June 11, 2024): 206, <https://doi.org/10.20956/halrev.v10i2.4844>.

²³ Muhazir Muhazir, Azwir Azwir, and Zubir Zubir, "Legal Institutions in Resolving Divorce Cases in Aceh," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (May 30, 2024): 211, <https://doi.org/10.29240/jhi.v9i1.8529>.

²⁴ Kathryn Robinson, "Regulation of Muslim Marriage in Indonesia: Political Challenges Across the Public/Private Divide," in *In Tandem – Pathways towards a Postcolonial Anthropology | Im Tandem – Wege Zu Einer Postkolonialen Ethnologie* (Wiesbaden: Springer Fachmedien Wiesbaden, 2023), 189–208, https://doi.org/10.1007/978-3-658-38673-3_11.

²⁵ Ramadhita Ramadhita, "Bias Gender Dalam Hukum Acara Perceraian Di Indonesia: Latar Belakang, Dampak, Dan Solusinya," *De Jure: Jurnal Hukum Dan Syar'iah* 14, no. 1 (June 29, 2022): 1–20, <https://doi.org/10.18860/j-fsh.v14i1.15966>.

sustainability by providing protection and fulfilling all the household's basic needs.²⁶ For this reason, the husband's priority is more towards work outside the home because it is based on his vital responsibility to fulfill the fundamental rights of his family members.

The role of wives is prioritised in internal household affairs based on the central role of wives as the leading figure in organising and managing internal household affairs so that the primary responsibility of wives is in the house and ensuring the atmosphere in the house remains harmonious and stable. Although the times require women to be equally able to have a career outside the home by pursuing certain professions according to their expertise, the biggest priority of a wife must still ensure that the internal conditions of the family remain orderly and organised, especially about her obligation to educate her children to be able to recognise and develop knowledge properly and optimally.

Gender Equality in Marriage from the Perspective of Islamic Law

The balance of the roles of husband and wife in the household is also contained in Islamic law; however, the distribution of this balance is reasonable because, since its early emergence, Islam has declared itself a religion of peace. Islam comes to earth with the mission of freeing humans from all forms of oppression and injustice among fellow human beings.²⁷ Thus, in addition to revering Allah as the only God who deserves to be worshipped, this religion also aims to enable humanity to live prosperously and adequately as their dignity is noble. It can be assumed that this religion is humanist and recognises human dignity as inherent in the perfect being. Therefore, Islam recognizes the fundamental rights inherent to each human being, including women.²⁸

According to the view of *Nahdlatul Ulama* (NU), Islam highly values and upholds the rights that support the respect of humans as creatures of God.²⁹ Islam has placed humans in a very honorable position. This position is recognized by Allah as stated in Surah Al-Isra' verse 70, the translation of which is: "And indeed We have honored the children of Adam, We transported them on the land and the sea, We gave them sustenance from the good, and We favored them with perfect advantages over most of the creatures We have created."

²⁶ Eni Zulaiha and Ayi Zaenal Mutaqin, "The Problems of The Marriage Age Changing in Indonesia in the Perspectives of Muslim Jurists and Gender Equality," *Hanifiya: Jurnal Studi Agama-Agama* 4, no. 2 (August 13, 2021): 99–108, <https://doi.org/10.15575/hanifiya.v4i2.13538>.

²⁷ Safi' et al., *Bhag-Rembbag Sabbala'an as a Method of Resolving Religious Conflicts in the Madura Legal Tradition, El-Mashlahah*, vol. 14, 2024, <https://doi.org/10.23971/el-mashlahah.v14i1.7819>.

²⁸ Pitrotussaadah Pitrotussaadah, Eva Fadhilah, and Faisal Zulfikar, "Islamic Law and Gender: A Misconception of Roles and Responsibilities in Parenting," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (December 31, 2023): 331–42, <https://doi.org/10.18860/j-fsh.v15i2.23868>.

²⁹ Mukhlis Mukhlis et al., "The Legal Culture to Prevent Radical Islamism by a Pesantren in Madura," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (June 24, 2024): 58–87, <https://doi.org/10.18860/j-fsh.v16i1.26216>.

The perspective of this verse was then elaborated by NU scholars at the momentum of the 2018 National Conference of Alim Ulama (Munas Alim Ulama'), with an explanation that the existence of human rights in the Islamic perspective boils down to 2 (*two*) privileges that humans must have, namely "hak al-karâmah" and "haq al-fadlilah", whose existence is inherent in the human person as a creature of God. In addition, the National Conference also considers that the fulfillment of the means of glorifying the human person is in line with the Prophet's mission as a mercy for the universe, so the recognition and fulfillment of human rights principles is the mission of Islam as a mercy for all nature.³⁰

The above view confirms that Islam recognizes equality and that everyone has equal rights in their social life.³¹ Islam also respects women's position as independent individuals. It has taught this respect since its early days in the world. In that period, many treatises, religious teachings, and events emphasized the honorable position of women. This contrasts with the tradition of Mecca society before the arrival of Islam, which considered women second-caste human beings under the domination of men.

In various Islamic historical literature, it is mentioned that once Umar bin Khattab shed tears when he remembered the dark period of his life before officially embracing Islam. In the pre-Islamic era, the people of Makkah considered the birth of a baby girl as a family disgrace. The presence of a baby girl did not bring an honorable position in the family because her existence was only sheltered under the control of men.³²

In this era, the birth of a baby girl was considered a disgrace to the family, leading to a culture of having to kill her to cover any disgrace that befell the family. There was an assumption that if the baby girl was saved, her existence would only be a man's pleasure and had nothing to do with the honor of the family. The culture of pre-Islamic Mecca society required women to serve men to satisfy their desires. Women were severely restricted from working outside the home, as their primary duties were meeting men, cooking, washing, and caring for all household matters. The only areas where women could work were in the kitchen, well, and bed.³³

For all these *jabiliyah* traditions, then Islam came with a glimmer of hope for the elevation of the status of women. There are at least four essential phases related

³⁰ Muwaffiq Jufri, "Nuansa Maqhasid Al-Syariah Dalam Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia," *Istinbath* 14, no. 1 (2017): 1–14.

³¹ Mukhlis Mukhlis et al., "Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia," *Lex Scientia Law Review* 7, no. 2 (November 30, 2023): 959–94, <https://doi.org/10.15294/lesrev.v7i2.72156>.

³² Jufri, "Nuansa Maqhasid Al-Syariah Dalam Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia."

³³ Muwaffiq Jufri, *Hukum Dan Hak Asasi Manusia; Dasar Teori Dan Praktiknya* (Depok: Rajawali Pers, 2023), 97, <https://www.rajagrafindo.co.id/produk/hukum-dan-hak-asasi-manusia-dasar-teori-dan-praktiknya-muwaffiq-jufri/>.

to the appreciation and recognition of Islam towards women, among others.³⁴ First, the phase of children, as stated above, the birth of a pre-Islamic baby girl was considered a family disgrace because the baby had to be buried in a living condition (alive). This condition was different if a baby boy was born. They make boys proud of their families by making them potential leaders who are considered to bring honor to their families one day.³⁵

Islam then comes with its noble teachings in respecting and glorifying the dignity of women. This aligns with the substance of Surah An-Nahl verses 58-59. Islam even explicitly condemned the pre-Islamic customs of the Makkan community, stating that the decision to disgrace the birth of a baby girl and then kill her was despicable and contrary to human nature.

Second was when women became wives; in this phase, the pre-Islamic Mecca society treated women as nothing more than clothes. Husbands were free to treat their wives according to their will and desire. Even the husband may give his wife to someone else because he no longer loves her. Giving his wife to someone else can be done even if his wife disagrees because the full power of the wife lies with the husband. In the tradition of pre-Islamic Arab society, the guardian had complete control over the woman in his care, including her property. If the woman was beautiful, she would be married and her property taken. If she was not, then there was an attempt to prevent her from getting married to keep the power over the property under the guardian's control. Islam condemns these evil customs and/or traditions, advising us to take care of and be kind, nurturing, and fair to orphaned women, as Allah says in Surah An-Nisaa' verse 127.

Third, during the phase of women's motherhood, the traditions of the pre-Islamic Makkah society did not give an honorable position to the existence of women as mothers. In this era, a mother could not get an inheritance when her child died. Islam then raised the status of women and gave them the right to receive inheritance when their children died. Islamic law also provides opportunities for women to receive inheritance property equally, a form of Islamic recognition of women's rights in property control.

Fourth, the phase when women become part of society. In this phase, the existence of women in society is very narrow, and they are not given any role. Women are only positioned as satisfying their husbands, taking care of all the needs of their husbands, and are not allowed to do anything outside of their obligations to take care of the household. In this case, it is very clear that the position of women in Mecca society is no longer limited to household affairs, and there is no recognition

³⁴ Mochomad Nadif Nasruloh and Taufiq Hidayat, "Budaya Patriarki Dalam Rumah Tangga (Pemahaman Teks Al-Qur'an Dan Kesetaraan Gender)," *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 13, no. 1 (June 30, 2022): 139, <https://doi.org/10.21043/yudisia.v13i1.14325>.

³⁵ Ismail Ismail et al., "Legal Age Equality in Marriage According to Indonesian Positive Law in the Studies of Gender and Maqāṣid Al-Sharia," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (July 6, 2023): 67–81, <https://doi.org/10.18860/j-fsh.v15i1.17696>.

of women's abilities for their roles outside of household affairs. Islam then comes to straighten out the various wrong assumptions and traditions regarding the position of women in social life. In fact, in several verses, Islam always elevates the status of women and states that a person's glory is not based on his status but on his piety to Allah. Both men and women have the same opportunity to achieve glory in the sight of Allah.

Specifically regarding equality in the household, Islamic law also positions husbands and wives equally; it's just that people's assumptions sometimes give a dominant position to the husband by basing it on the provisions of Surah An-Nisa verse 34, which states that men are leaders for women. This argument is widely used as a basis for men to legitimize the dominance of their position in the household. The husband's position, who is considered the leader, causes the birth of a model of thought that requires the wife to obey and submit to the husband's orders.³⁶ This thought pattern degrades the position of wives in the household and gives birth to a variety of discrimination experienced by women.

If examined thoroughly, Islam positions husbands and wives in a balanced and equal manner. So, it is not true that the husband has a dominant role in the household. Surah An-Nisa verse 34 also cannot be used as a basis for legitimizing the position of men in the household because the context of the revelation of the verse is not like the general assumption that the husband's position is more dominant than the wife's. The context of the revelation of the verse above is more of an effort to give responsibility to the husband to educate and protect his wife. The husband must create harmony in household life by setting a good example and fulfilling his financial obligations to his wife and children.³⁷

There is also an opinion that what is meant by Surah Al-Nisa's verse 34 about men as leaders of women in marital relations is not in the context of gender differences but instead in their roles.³⁸ Household leadership based on roles and capacities differs from leadership based on gender differences.³⁹ If leadership is based on gender, then the proposition positions men as absolute leaders for the family even though they do not have the capacity in that field.⁴⁰ Meanwhile, if you look at leadership based on roles and capacities, then gender is not an issue as long as he has the capacity and ability to lead, including in the household.

³⁶ Amira Mashhour, "Islamic Law and Gender Equality: Could There Be a Common Ground?: A Study of Divorce and Polygamy in Sharia Law and Contemporary Legislation in Tunisia and Egypt," *Human Rights Quarterly* 27, no. 2 (May 2005): 562–96, <https://doi.org/10.1353/hrq.2005.0022>.

³⁷ Muchammad Qosim Alfaizi, "Membangun Kesetaraan Gender Dalam Kehidupan Keluarga Perspektif Hukum Islam," *Jurnal Restorasi Hukum* 5, no. 1 (June 21, 2022): 87, <https://doi.org/10.14421/jrh.v5i1.2383>.

³⁸ Miftahul Huda et al., "Tradition, Wisdom and Negotiating Marriage and Inheritance Disputes on Javanese Muslim," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (May 30, 2024): 25, <https://doi.org/10.29240/jhi.v9i1.9887>.

³⁹ Sisca Novalia and Arief Rachman Hakim, "Modernization of Shibhul Iddah for Men Perspective Compilation of Islamic Law," in *KnE Social Sciences*, 2024, 714–26, <https://doi.org/10.18502/kss.v9i2.15027>.

⁴⁰ Alfaizi, "Membangun Kesetaraan Gender Dalam Kehidupan Keluarga Perspektif Hukum Islam."

This opinion correlates with other arguments stating the balanced role between husband and wife, such as in Surah Al-Baqarah verse 228 with the translation, "And women have rights that are equal to their obligations in a *ma'ruf* (good) way."⁴¹ The above verse explicitly declares a balanced position between men and women in fulfilling rights and responsibilities.⁴² Both husbands and wives have rights, but obligations must be fulfilled to their respective spouses. This balance of rights and obligations leads to equal roles and positions and does not justify domination between the two.

Inequality in the Fulfillment of Rights and Obligations in Households in Divorce in Madura

In 2023, the number of divorces in Sampang Regency reached 1,626 cases, of which continuous disputes, quarrels, economic problems, abandonment of wife, and polygamy dominated the top four causes.⁴³ The number of each cause of divorce can be seen in the figure below:

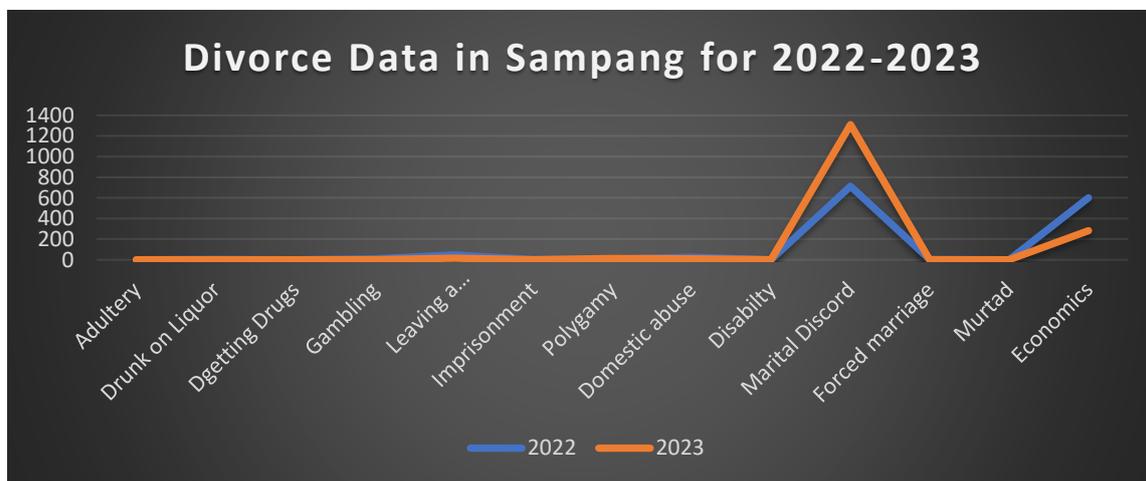


Figure 1: Number and Causes of Divorce in Sampang Regency

Source: Compiled by the author based on divorce decision at the Sampang Religious Court: <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pa-sampang>

In the figure above, it can be seen that in 2023, the cause of divorce in the form of continuous disputes was the most with 1,320 cases, followed by economic matters totaling 281 cases, then leaving one of the spouses totaling 15 cases, and finally polygamy totaling 12 cases. Meanwhile, in 2022, the number of divorce cases was 1,045, with the highest number of causes in the form of continuous disputes totaling

⁴¹ Ahmad Muhajir and Muhammad Azryan Syafiq, "Right and Obligation Husband Wife in Perspective Islam and State Law," *Journal Analytica Islamica* 12, no. 2 (December 28, 2023): 250, <https://doi.org/10.30829/jai.v12i2.17546>.

⁴² A. Kumedi Ja'far and Agus Hermanto, "Reinterpretation of the Rights and Duties of Contemporary Husbands and Wives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 26, 2021): 648, <https://doi.org/10.22373/sjhk.v5i2.9124>.

⁴³ Zain Alwi Arafat and Herman Herman, "Bimbingan Keluarga Sakinah Dalam Mewujudkan Ketahanan Keluarga (Studi Bimbingan Konseling Di Pusat Layanan Keluarga Sejahtera Potre Koneng Sumenep)," *The Indonesian Journal of Islamic Law and Civil Law* 4, no. 1 (April 27, 2023): 1–17, <https://doi.org/10.51675/jaksya.v4i1.433>.

713, economic problems totaling 602, leaving one of the parties as many as 48, and domestic violence as many as 24 cases.

Each married couple maintains these four causes of divorce to ensure the continuity of their household and avoid divorce.⁴⁴ For example, most disputes that cause divorce are caused by the attitude of each partner who cannot understand their respective characters.⁴⁵ In the context of households, each partner is entitled to affection from their partner; besides that, they are also obliged to respect differences so that household harmony can be harmonious.⁴⁶

Many divorce cases also occurred in Pamekasan Regency, which in 2023 reached a total of 1332 cases with quite diverse causes, the details of which are described in the figure below:

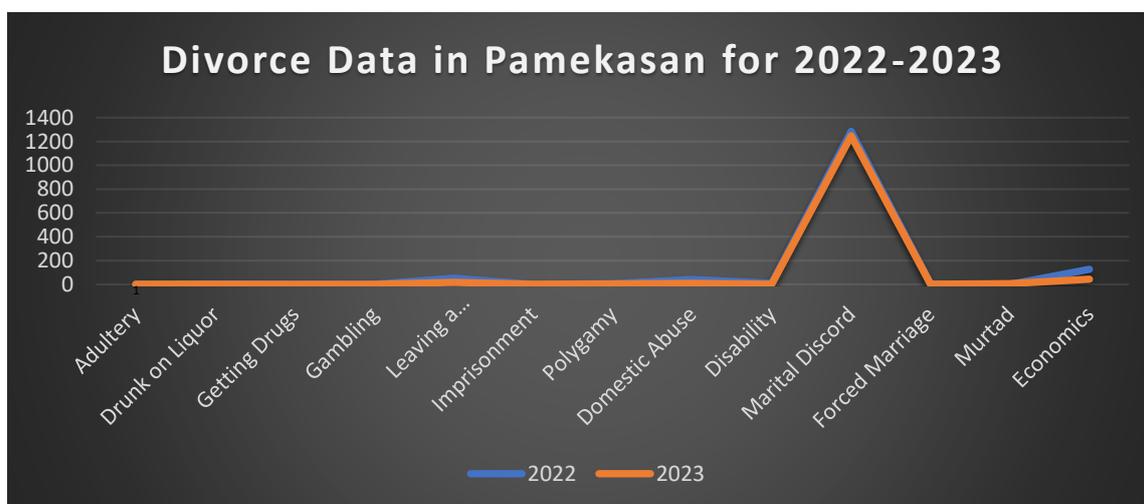


Figure 2: Number and Causes of Divorce in Pamekasan Regency

Source: Compiled by the author based on divorce decisions at the Pamekasan Religious Court: <https://pa-pamekasan.go.id/pages/direktori-putusan>

The figure above shows that in 2023, the causes of divorce in Pamekasan Regency were 1,530 and were dominated by continuous disputes with 1247, economic problems with 43, leaving one of the parties with 17, and domestic violence with 17 cases. In 2022, the number of divorces was 1,530, whose causes were dominated by continuous disputes with a total of 1285, economic problems with 126, leaving one of the parties with 52, and domestic violence with 42 cases.

⁴⁴ Arne Huzaimah et al., “Disregarding the Reproductive Rights of Women in Child Marriage in Indonesia,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (June 10, 2023): 1097, <https://doi.org/10.22373/sjhk.v7i2.17392>.

⁴⁵ Mies GRIJNS and Hoko HORII, “Child Marriage in a Village in West Java (Indonesia): Compromises between Legal Obligations and Religious Concerns,” *Asian Journal of Law and Society* 5, no. 2 (November 5, 2018): 453–66, <https://doi.org/10.1017/als.2018.9>.

⁴⁶ Fitri Hidayat, “Interpretation of Judges Toward Fasid and Batil Marriage,” *Trunojoyo Law Review* 1, no. 1 (February 5, 2019): 61–75, <https://doi.org/10.21107/tlr.v1i1.5259>.

Many divorce cases also occurred in Sumenep district in 2022 and 2023. In 2023 the number reached 1483, an increase from the previous year, which recorded 1,312 cases. The details of the causes can be seen in the figure below:

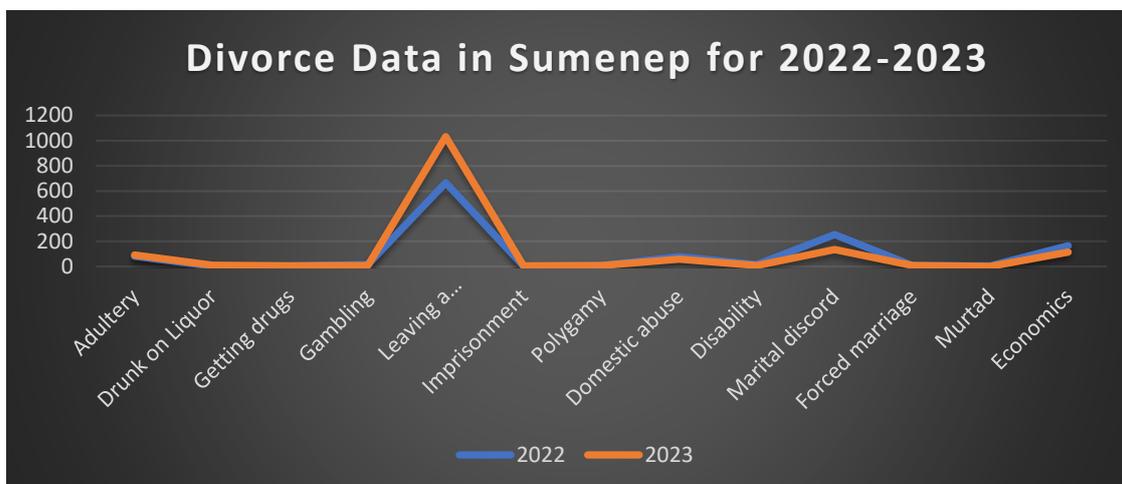


Figure 3: Number and causes of divorce in Sumenep Regency

Source: Compiled by the author based on divorce decisions at the Sumenep Religious Court, <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pa-sumenep>

The figure above shows that most divorces in Sumenep district in 2023 were dominated by the issue of leaving one of the parties, which amounted to 1032, followed by 136 continuous disputes, 114 economic matters, and 91 cases of adultery. In 2022, the causes of divorce were dominated by the issue of one party leaving their partner, which amounted to 666, followed by the issue of continuous disputes of as many as 255, economic problems of as many as 165, and committing adultery of as many as 81 cases.

Furthermore, divorce cases in Bangkalan Regency in 2023 amounted to 1,636, a decrease from the previous year, which reached 1,700 cases. The details of the causes are described in the figure below.

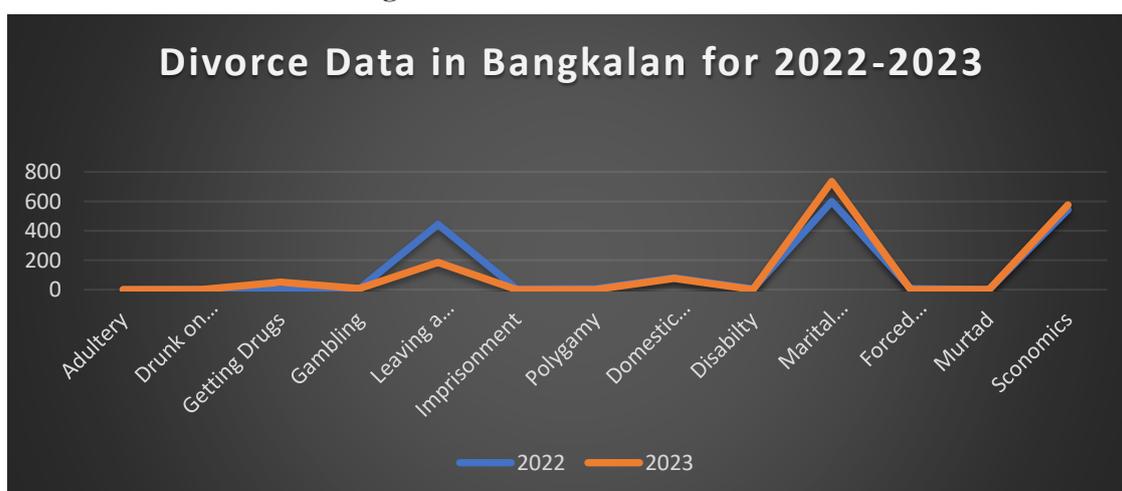


Figure 4: Number and causes of divorce in Bangkalan Regency

Source: Compiled by the author based on divorce decisions at Bangkalan Religious Court, <https://putusan3.mahkamahagung.go.id/pengadilan/profil/pengadilan/pa-bangkalan>

The figure above shows that the dominant cause of divorce in Bangkalan Regency in 2023 was dominated by continuous disputes with a total of 735, economic problems with 576, leaving one of the parties with 186 and domestic violence with 77 cases. In 2022, the cause of divorce was dominated by continuous disputes with a total of 599, followed by economic problems with a total of 544, leaving one of the parties with 443 and domestic violence with 82 cases.

The divorce data above shows the dominance of the causes of divorce in the four districts in Madura, where, on average, the causes are continuous disputes, economic problems, leaving one of the parties, and domestic violence. However, in certain areas, there are also other causes of divorce with a reasonably large number, such as polygamy and adultery. These causes of divorce do have the potential to disrupt household harmony and ultimately lead to the non-fulfilment of the rights and obligations of one of the spouses.⁴⁷ This imbalance between rights and responsibilities in the family environment can lead to divorce, as in some cases in Madura.

Divorce as an Effort to Enforce Gender Equality in the Household in Madura

The number of divorces in four districts in Madura should be studied and watched. The increasing trend indicates that household conditions in Madura could be improved. Divorce ends with various problems in the household. Couples who were previously bound by marriage but eventually decided to divorce signalled a serious problem that needed to be addressed immediately.

The speed of effort in resolving this issue aims to save the sacredness of marriage, which should make each partner (husband and wife) feel happy, peaceful, and prosperous. Religious and state laws have guided the existence of marriage, the purpose of which is intended to bring humans to a level of serene and happy life (*sakinah mawaddah wa-rahmah*). If, within the household, various behaviours and relationship patterns lead to feelings of unhappiness and distress, it can be concluded that the marriage is not functioning well. There is even something wrong with the marriage bond, whether during the pre-marriage period or once it is already in the status of marriage.

One of these problems is the absence of the principle of equality within the household, which has led to an increase in the divorce rate in Madura over the past two years. This is evident in several divorce cases, in which a change in the husband's attitude follows a dispute or quarrel, and he no longer provides maintenance to his wife. In addition, in several decisions, it was also stated that when there was a dispute, there was a lot of violence in the form of beatings and other forms of violence during the conflict and quarrels. This alimony and physical violence then caused several

⁴⁷ Dinda Difia Madina, Ahmad Rezy Meidina, and Anwar Zein, "The Dynamics of Polygamy and Divorce in Muslim Countries," *El-Aqwal: Journal of Sharia and Comparative Law* 2, no. 2 (August 15, 2023): 135–48, <https://doi.org/10.24090/el-aqwal.v2i2.9410>.

wives in Madura to decide to file for divorce. Some of these decisions are included in the table below:

Table 1. Forms of Husband and Wife Inequality in Divorce Decisions in Madura

Verdict	Forms of inequality
685/Pdt.G/2024 /PA.Pmk	He did not support his wife for 6 years and often committed acts of violence
1514/Pdt.G/2024 4/PA.Pmk	Did not support his wife for 8 months due to jealousy.
1454/Pdt.G/2024 4/PA.Pmk	Not providing for his wife and leaving home for 2 years
1445/Pdt.G/2024 4/PA.Pmk	He often committed acts of violence against his wife, did not provide for his wife, and liked to play online gambling. This incident has been going on for one year and 5 months.
1415/Pdt.G/2024 4/PA.Pmk	He did not support his wife for 1 year and often committed acts of violence
1368/Pdt.G/2024 4/PA.Pmk	He does not provide alimony and has left his wife for 2 years and 4 months.
1368/Pdt.G/2024 4/PA.Pmk	Abandoning his wife and not providing alimony for 2 years due to a dispute over the place of residence.
973/Pdt.G/2024 /PA.Pmk	Abandoning his wife and not providing maintenance for 1 year due to infidelity
1479/Pdt.G/2024 4/PA.Pmk	He did not provide alimony for his wife for 2 years due to a remarriage without obtaining permission from his wife.
1749/Pdt.G/2024 3/PA.Bkl	Failure to support wife for 5 years due to infidelity

Source: *Divorce Decisions at Religious Courts in Madura,*

<https://putusan3.mahkamahagung.go.id/direktori/index/tahunjenis/putus/tabun/2023.html>

Table 1 above explains that whatever the issue that is the leading cause of divorce, it is always followed by a change in the attitude of the husband who no longer provides maintenance to his wife, both physical and mental maintenance. In the concept of household relations, state, and religious regulations have obliged husbands to provide for their wives and children as their obligations as leaders in the household. The husband's negligence in providing maintenance is a form of arrogance of the husband's leadership in the household that denies his obligations and role as a husband.

The husband must fulfil the most important right in a marriage bond: the wife's right to maintenance and good treatment.⁴⁸ Islamic law and Indonesian positive law have established these rights as something a husband must fulfil for his wife.⁴⁹ The basis for these obligations is as described in the table below:

⁴⁸ P. Kruiniger, "Islamic Divorces in Europe: Bridging the Gap between European and Islamic Legal Orders" (Maastricht University, 2014), 77–79, <https://doi.org/10.26481/dis.20141217pk>.

⁴⁹ Iskandar Budiman, "The Islamic Perspective on The Improvement of Family Economy in The New Normal," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021): 252, <https://doi.org/10.22373/sjkh.v5i1.8389>.

Table 2: Basic Rights of a Wife in Marriage

Type of Rights	Legal Basis	
	Islamic Law	Indonesian Positive Law
A wife's right to financial support	<ol style="list-style-type: none">1) Surah Al-Baqarah, verse 233, obliges the husband to provide food and clothing for his wife within the limits of his ability.2) Surah At-Thalaq verse 7 reaffirms the husband's obligation to his wife in providing maintenance adjusted to the limits of his ability. This verse emphasizes that poverty is not a justification for abolishing the husband's obligation to provide maintenance.	<ol style="list-style-type: none">1) Article 34, paragraph (1) of the Marriage Law states that one of the husband's obligations is to provide for his family's needs.2) Article 80 paragraph (2) and Article 80 paragraph (4) KHI states that the husband must provide for his wife's and family's basic needs according to his ability. State regulations do not permit the abolition of the husband's obligation to provide this maintenance.
Wife's right to be treated well	<ol style="list-style-type: none">1) Surah Al-Nisa's verse 19 obligates the husband to treat his wife well and adequately.2) Surah Al-Baqarah verse 228 obligates the husband to love, cherish, and treat his wife well.	<ol style="list-style-type: none">1) Article 33 of the Marriage Law regulates the obligations of husband and wife to respect each other, love, be faithful and provide physical and mental assistance to one another.2) Article 77 paragraph (2) KHI states that both wife and husband are obliged to love, care for, respect and strive for the integrity of the household in a good way.

Source: Compiled by the author from various references

The content of the above regulation emphasises the husband's obligation to fulfill the rights of his wife with the most basic scope of rights in the form of maintenance to meet the needs of life and the right to receive good treatment and association from the husband. Several divorce decisions, as described in Table 1 above, show that the two fundamental rights components that should be fulfilled by the husband towards his wife cannot be carried out properly, especially when the couple is involved in disputes and arguments.

For example, in the decision of Pamekasan Religious Court No. 685/Pdt.G/2024/PA.Pmk. The basis of this divorce suit was caused by the absence of maintenance provided by the husband for 7 years. In addition, the husband also often committed violence in the form of beatings to his wife. The two causes of divorce, if viewed from the perspective of regulations, are the marriage law and KHI, which have met the requirements for filing a divorce suit. Considering the duration of not receiving maintenance and the practice of domestic violence that occurred lasted up to seven years.

The duration indicates that the wife has extra patience in dealing with her husband, who is not responsible for his family. However, on the other hand, such household conditions will certainly not be conducive because they need to balance

the household's roles. The position of husband and wife is different, allowing the wife to struggle to maintain the household by earning her living to preserve the integrity of the household and fulfill all household needs that the husband cannot do. Equality is also not seen in this family interaction pattern, where the wife's position is often the target of violence due to the husband's negligence in carrying out his role.⁵⁰ Meanwhile, religious and state laws have emphasized an equal position regarding the obligation to love and care for each other.

The choice of divorce is certainly not an easy one for wives in Madura.⁵¹ Many things must be considered, including the future of children who must be saved after divorce. In addition, women who choose to divorce also do not escape the negative stigma pinned by relatives and neighbours.⁵² This negative stigma and slurs are caused by the Madurese tradition that considers divorce a family disgrace that should be avoided. This family disgrace is most dominantly blamed on the wife, who cannot serve her husband properly and optimally. In addition, women who file for divorce are also considered to have gone against religious law, which does not encourage divorce.

The negative stigma of divorce continues to grow, not only targeting women who choose to divorce their husbands but also targeting the wife's family. In some instances, many of her relatives have strained relationships with the wife's family because of her history of divorce. One of the most significant consequences is the difficulty for women who have been divorced to get back married because of the growing stigma about their failure to maintain the integrity of the household.

This phenomenon seems to have become the legal culture of the Madurese community in responding to divorce, which certainly does not favour women.⁵³ The stigma that targets women and their families seems to impose all household problems on a wife. Several decisions of divorce in Madura show how tortured a wife is, who often receives acts of violence and is not given maintenance when there are disputes and arguments whose duration even reaches seven years. Even in a state of dispute, the husband's obligation to provide maintenance still applies, and leaving this obligation can be categorised as a violation of the wife's rights in domestic life.

It must be understood that the effort to end marital relations in several divorce cases in Madura is the last way the wife takes to end all forms of injustice in the household. The wives who divorce are an effort and a way to restore their dignity as

⁵⁰ Siti Musawwamah, "Divorcing Husbands as a Solution to Protect Women's Dignity: A Case Study of Domestic Violence at Madura Religious Court," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (December 31, 2022): 997, <https://doi.org/10.22373/sjhk.v6i2.14929>.

⁵¹ Sofia Mubarak Sa'bana and Rusdiana Navlia, "Tingginya Angka Cerai Gugat Di Kabupaten Sumenep & Dampaknya Bagi Anak."

⁵² Atun Wardatun and Bianca J. Smith, "Woman-Initiated Divorce and Feminist Fiqh in Indonesia: Narrating Male Acts of Nushūz in Marriage," *Ulumuna* 24, no. 2 (December 31, 2020): 266–95, <https://doi.org/10.20414/ujs.v24i2.416>.

⁵³ Mohammad Nurul Huda et al., "Criminal Law Formulation Against Underage Child Marriage," *Trunojoyo Law Review* 5, no. 2 (August 29, 2023): 144–60, <https://doi.org/10.21107/tr.v5i2.20925>.

a whole human being who cannot be treated arbitrarily. Women are human beings to whom a set of rights are attached that no one, including their husbands, should violate.⁵⁴ The effort to end all forms of injustice through divorce is an effort for women to enjoy their equality with other humans and also have the right to happiness and anti-violence.

The neglect of the husband's arbitrariness is a neglect of the fulfillment of women's rights, which should be positioned as equal to men in marital relations. Article 16, paragraph (1) of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) has explained the importance of equality between husband and wife in marriage.⁵⁵ Both husbands and wives have equal rights and responsibilities in their marital relationship, including the inherent personal rights of each that must be respected.⁵⁶

The choice of divorce is also the personal right of a wife when she feels unable to maintain the integrity of her household due to the irresponsible behaviour of her husband. Behaviour that no longer provides maintenance and tends to act violently in resolving disputes, which is the cause of many divorces, must be positioned as an effort to end the injustices that women often receive. The negative stigma surrounding family disgrace due to divorce certainly cannot be pinned on women who choose this path of divorce, because what they do is a form of effort so that their dignity can be seen in full as human beings glorified by God.

Conclusion

The choice to end a marriage through divorce, taken by many women in Madura, must be understood as a last resort to end all forms of injustice in the household caused by the husband's arbitrary behaviour. In divorce cases in Madura, the same pattern of causes can be seen, where husbands tend not to provide financial support, and some even resort to violence when disputes and arguments arise. Some of these cases have lasted up to seven years and, on average, exceed one year. Therefore, divorce must be understood as a last resort to restore dignity and uphold the principle of equality in domestic life. This is because these household patterns have neglected respect for women's rights in marriage, especially the fulfillment of their rights to financial support, affection, and the right not to be victims of domestic violence. Such patterns are indeed found in traditional Muslim communities, such as in Madura, making it the duty and responsibility of the government and religious

⁵⁴ Adelia Hidayatul Rahmi and Suryaningsi Suryaningsi, "Pelaku Pelanggaran Hak Asasi Manusia Pada Kasus Kekerasan Dalam Rumah Tangga Di Kota Samarinda," *Nomos: Jurnal Penelitian Ilmu Hukum* 2, no. 3 (May 11, 2022): 82–92, <https://doi.org/10.56393/nomos.v1i5.581>.

⁵⁵ Zeyad Jaffal, Faisal Shawabkeh, and Ali Hadi Al Obeidi, "Toward Constructive Harmonisation of Islamic Family Law and CEDAW: A Study on the UAE's Reservation to CEDAW Article 16 and Equal Rights to Marriage and Family Relations," *Australian Journal of Human Rights* 28, no. 1 (January 2, 2022): 139–62, <https://doi.org/10.1080/1323238X.2022.2122689>.

⁵⁶ Ana Cláudia Ruy Cardia Atchabahian, "Article 16 – The Right to Marry and to Found a Family," in *The Universal Declaration of Human Rights* (Leiden, The Netherlands: Brill | Nijhoff, 2023), 379–94, https://doi.org/10.1163/9789004365148_018.

leaders to reawaken the community to respect women's rights in the household. The government, through its network of state institutions, must ensure that women's rights are properly upheld within the household, so that marriages intended to build harmonious families can succeed. A happy household is a simple reflection of the teachings of Islam, which emphasize love and compassion.

Acknowledgement

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References

- Abdul Jafar, Wahyu, and Iim Fahimah. "The Concept Of Munakahat Fiqh; Role Of Husband And Wife In Forming A Samara Family (Sakinah, Mawadah, Waromah) Version Of Dhau Al-Mishbah Fi Bayani Ahkam An-Nikah By KH. Hasyim Asy'ari." *International Journal of Educational Research & Social Sciences* 3, no. 2 (April 28, 2022): 832–43. <https://doi.org/10.51601/ijersc.v3i2.309>.
- Agusta, Acendra, Mohammad Ali Sajjad, and Miftahudin Azmi. "Legal Issues of Ganti Tikar Marriage in Bugis Wajo Custom in East Tanjung Jabung Regency." *Trunojoyo Law Review* 6, no. 1 (February 29, 2024): 142–58. <https://doi.org/10.21107/tlr.v6i1.23947>.
- Alfaizi, Muchammad Qosim. "Membangun Kesetaraan Gender Dalam Kehidupan Keluarga Perspektif Hukum Islam." *Jurnal Restorasi Hukum* 5, no. 1 (June 21, 2022): 87. <https://doi.org/10.14421/jrh.v5i1.2383>.
- Alwi Arafat, Zain, and Herman Herman. "Bimbingan Keluarga Sakinah Dalam Mewujudkan Ketahanan Keluarga (Studi Bimbingan Konseling Di Pusat Layanan Keluarga Sejahtera Potre Koneng Sumenep)." *The Indonesian Journal of Islamic Law and Civil Law* 4, no. 1 (April 27, 2023): 1–17. <https://doi.org/10.51675/jaksya.v4i1.433>.
- Budiman, Iskandar. "The Islamic Perspective on The Improvement of Family Economy in The New Normal." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021): 252. <https://doi.org/10.22373/sjhc.v5i1.8389>.
- Cindy Mutia Annur. "Kasus Perceraian Di Indonesia Melonjak Lagi Pada 2022, Tertinggi Dalam Enam Tahun Terakhir." databoks.katadata.co.id, 2023. <https://databoks.katadata.co.id/datapublish/2023/03/01/kasus-perceraian-di-indonesia-melonjak-lagi-pada-2022-tertinggi-dalam-enam-tahun-terakhir>.
- Dikuraisyin, Basar, Sumarkan, Ah Fajruddin Fatwa, and Masadah. "Economic Underpinnings of Early Marriage: The Tengka Tradition among the Madurese." *Al-Ahwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (June 30, 2024): 93–106. <https://doi.org/10.14421/ahwal.2024.17106>.
- GRIJNS, Mies, and Hoko HORII. "Child Marriage in a Village in West Java (Indonesia): Compromises between Legal Obligations and Religious Concerns." *Asian Journal of Law and Society* 5, no. 2 (November 5, 2018): 453–

66. <https://doi.org/10.1017/als.2018.9>.
- Gul, Ayesha, Shereen Younas Khan, Soniya Shmas, and Muhammad Humayun. "Divorce: Causes and Consequences in Islamic Perspective." *PalArch's Journal of Archaeology of Egypt / Egyptology* 18, no. 4 (2021): 6136–51. <https://doi.org/https://archives.palarch.nl/index.php/jae/article/view/7236>.
- Hannan, Abd, and Zainuddin Syarif. "The High Rate of Judicial Divorce among Women of Lower Education in Madura-Indonesia: A Gender Perspective." *PALASTREN: Jurnal Studi Gender* 16, no. 1 (June 26, 2023): 29. <https://doi.org/10.21043/palastren.v16i1.15286>.
- Hassan, Ishraq. "Empowering Women: Understanding Divorce, Equality, and Competition between Genders." *Integrated Journal for Research in Arts and Humanities* 3, no. 5 (September 30, 2023): 203–16. <https://doi.org/10.55544/ijrah.3.5.19>.
- Hidayat, Eko, and Siti Mahmudah. "Understanding and Awareness of Gender Equality in Divorce and Its Contribution to Islamic Family Law Reform in Indonesia." *SMART: Journal of Sharia, Traditon, and Modernity* 2, no. 1 (June 24, 2022): 59. <https://doi.org/10.24042/smart.v2i1.14625>.
- Hidayat, Fitri. "Interpretation of Judges Toward Fasid and Batil Marriage." *Trunojoyo Law Review* 1, no. 1 (February 5, 2019): 61–75. <https://doi.org/10.21107/tlr.v1i1.5259>.
- Huda, Miftahul, Agus Purnomo, Abdul Mun'im, Lutfi Hadi Aminuddin, and Lukman Santoso. "Tradition, Wisdom and Negotiating Marriage and Inheritance Disputes on Javanese Muslim." *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (May 30, 2024): 25. <https://doi.org/10.29240/jhi.v9i1.9887>.
- Huda, Mohammad Nurul, Khulasotun Nuroiyah Ummi Saadah, Cristovao Adao Da Silva, and Wahyudi Wahyudi. "Criminal Law Formulation Against Underage Child Marriage." *Trunojoyo Law Review* 5, no. 2 (August 29, 2023): 144–60. <https://doi.org/10.21107/tlr.v5i2.20925>.
- Huzaimah, Arne, Muhammad Abdillah, Nur Quma Laila, M. Tamudin, and Tri Marhaeni Puji Astuti. "Disregarding the Reproductive Rights of Women in Child Marriage in Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (June 10, 2023): 1097. <https://doi.org/10.22373/sjkh.v7i2.17392>.
- Ismail, Ismail, Busyro Busyro, Endri Yenti, Saiful Amin, and Hanif Aidhil Alwana. "Legal Age Equality in Marriage According to Indonesian Positive Law in the Studies of Gender and Maqāṣid Al-Sharia." *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (July 6, 2023): 67–81. <https://doi.org/10.18860/j-fsh.v15i1.17696>.
- Ja'far, A. Kumedi, and Agus Hermanto. "Reinterpretation of the Rights and Duties

- of Contemporary Husbands and Wives.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 26, 2021): 648. <https://doi.org/10.22373/sjhk.v5i2.9124>.
- Jaffal, Zeyad, Faisal Shawabkeh, and Ali Hadi Al Obeidi. “Toward Constructive Harmonisation of Islamic Family Law and CEDAW: A Study on the UAE’s Reservation to CEDAW Article 16 and Equal Rights to Marriage and Family Relations.” *Australian Journal of Human Rights* 28, no. 1 (January 2, 2022): 139–62. <https://doi.org/10.1080/1323238X.2022.2122689>.
- Jufri, Muwaffiq. “Nuansa Maqhasid Al-Syariah Dalam Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia.” *Istinbath* 14, no. 1 (2017): 1–14.
- Jufri, Muwaffiq, Safi Safi, Paul Atagamen Aidonojje, Zaini Zaini, and Yusuf Ibrahim Arowosaiye. “Religion and State in Islamic Constitutional Law: The Role of Pesantren in Strengthening Symbiotic Islam and the State in Madura.” *Justicia Islamica* 21, no. 2 (November 6, 2024): 221–46. <https://doi.org/10.21154/justicia.v21i2.9283>.
- Kruiniger, P. “Islamic Divorces in Europe : Bridging the Gap between European and Islamic Legal Orders.” Maastricht University, 2014. <https://doi.org/10.26481/dis.20141217pk>.
- Lailam, Tanto, Putri Anggia, and M. Luthfi Chakim. “The Proportionality Test Models of Competing Rights Cases in the Civil and Common Law Systems: Lesson to Learn for Indonesia.” *Hasanuddin Law Review* 10, no. 2 (June 11, 2024): 206. <https://doi.org/10.20956/halrev.v10i2.4844>.
- Ma’u, Dahlia Haliah, Wagiyem Wagiyem, and Rita Mustika Rahayu. “The Construction of Cerai Manis (Preferred Divorce) on the Border of Indonesia and Malaysia Communities.” *Al-’Adalah* 20, no. 1 (June 27, 2023): 19. <https://doi.org/10.24042/adalah.v20i1.16518>.
- Madina, Dinda Difia, Ahmad Rezy Meidina, and Anwar Zein. “The Dynamics of Polygamy and Divorce in Muslim Countries.” *El-Aqwal: Journal of Sharia and Comparative Law* 2, no. 2 (August 15, 2023): 135–48. <https://doi.org/10.24090/el-aqwal.v2i2.9410>.
- Maimun, Maimun. “The Women’s Rights in Divorce and Gender Equality Discourse in The Dynamics of Divorce in Madura.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 27, 2022): 468. <https://doi.org/10.22373/sjhk.v6i1.12804>.
- Mashhour, Amira. “Islamic Law and Gender Equality: Could There Be a Common Ground?: A Study of Divorce and Polygamy in Sharia Law and Contemporary Legislation in Tunisia and Egypt.” *Human Rights Quarterly* 27, no. 2 (May 2005): 562–96. <https://doi.org/10.1353/hrq.2005.0022>.
- Monavia Ayu Rizaty. “Data Jumlah Kasus Perceraian Di Indonesia Hingga 2023.”

- DataIndonesia.Id.* 2024. <https://dataindonesia.id/varia/detail/data-jumlah-kasus-perceraian-di-indonesia-hingga-2023>.
- Muhajir, Ahmad, and Muhammad Azryan Syafiq. "Right and Obligation Husband Wife in Perspective Islam and State Law." *Journal Analytica Islamica* 12, no. 2 (December 28, 2023): 250. <https://doi.org/10.30829/jai.v12i2.17546>.
- Muhazir, Muhazir, Azwir Azwir, and Zubir Zubir. "Legal Institutions in Resolving Divorce Cases in Aceh." *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (May 30, 2024): 211. <https://doi.org/10.29240/jhi.v9i1.8529>.
- Mukhlis, Mukhlis, Raphael D. Jackson-Ortiz, Muwaffiq Jufri, Evis Garunja, and Paul Atagamen Aidonojie. "Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia." *Lex Scientia Law Review* 7, no. 2 (November 30, 2023): 959–94. <https://doi.org/10.15294/lesrev.v7i2.72156>.
- Mukhlis, Mukhlis, Muwaffiq Jufri, Yusuf Ibrahim Arowosaiye, Evis Garunja, and Helmy Boemiya. "The Legal Culture to Prevent Radical Islamism by a Pesantren in Madura." *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (June 24, 2024): 58–87. <https://doi.org/10.18860/j-fsh.v16i1.26216>.
- Musawwamah, Siti. "Divorcing Husbands as a Solution to Protect Women's Dignity: A Case Study of Domestic Violence at Madura Religious Court." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (December 31, 2022): 997. <https://doi.org/10.22373/sjkh.v6i2.14929>.
- Muwaffiq Jufri. *Hukum Dan Hak Asasi Manusia; Dasar Teori Dan Praktiknya*. Depok: Rajawali Pers, 2023. <https://www.rajagrafindo.co.id/produk/hukum-dan-hak-asasi-manusia-dasar-teori-dan-praktiknya-muwaffiq-jufri/>.
- Na'mah, Ulin, Mochammad Agus Rachmatullah, Husnul Yaqin, and Rezki Suci Qamaria. "Reducing the Divorce Rate in the Religious Courts Through Cultivating Egalitarian Relationships." *Khazanah Hukum* 6, no. 1 (April 26, 2024): 81–97. <https://doi.org/10.15575/kh.v6i1.34368>.
- Nasruloh, Mochomad Nadif, and Taufiq Hidayat. "Budaya Patriarki Dalam Rumah Tangga (Pemahaman Teks Al-Qur'an Dan Kesetaraan Gender)." *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 13, no. 1 (June 30, 2022): 139. <https://doi.org/10.21043/yudisia.v13i1.14325>.
- Novalia, Sisca, and Arief Rachman Hakim. "Modernization of Shihul Iddah for Men Perspective Compilation of Islamic Law." In *KnE Social Sciences*, 714–26, 2024. <https://doi.org/10.18502/kss.v9i2.15027>.
- Nurlaelawati, Euis. "Women's Financial Rights after Divorce in Indonesia." In *Women and Property Rights in Indonesian Islamic Legal Contexts*, Leiden Stu., 89–106. Leiden, The Netherlands: BRILL, 2018. https://doi.org/10.1163/9789004386297_007.

- Pitrotussaadah, Pitrotussaadah, Eva Fadhilah, and Faisal Zulfikar. "Islamic Law and Gender: A Misconception of Roles and Responsibilities in Parenting." *De Jure: Jurnal Hukum Dan Syariah* 15, no. 2 (December 31, 2023): 331–42. <https://doi.org/10.18860/j-fsh.v15i2.23868>.
- Purna Nisa, Martina. "Critical Review of Domestic Violence as Reason for Divorce: Comparison of Divorce Laws in Indonesia, Malaysia and the Maldives." *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 16, no. 1 (June 22, 2021): 1–26. <https://doi.org/10.19105/al-lhkam.v16i1.4292>.
- Rahmi, Adelia Hidayatul, and Suryaningsi Suryaningsi. "Pelaku Pelanggaran Hak Asasi Manusia Pada Kasus Kekerasan Dalam Rumah Tangga Di Kota Samarinda." *Nomos: Jurnal Penelitian Ilmu Hukum* 2, no. 3 (May 11, 2022): 82–92. <https://doi.org/10.56393/nomos.v1i5.581>.
- Ramadhita, Ramadhita. "Bias Gender Dalam Hukum Acara Perceraian Di Indonesia: Latar Belakang, Dampak, Dan Solusinya." *De Jure: Jurnal Hukum Dan Syariah* 14, no. 1 (June 29, 2022): 1–20. <https://doi.org/10.18860/j-fsh.v14i1.15966>.
- Rinaldo, Rachel, Eva F. Nisa, and Nina Nurmila. "Divorce Narratives and Class Inequalities in Indonesia." *Journal of Family Issues* 45, no. 5 (May 2, 2024): 1195–1216. <https://doi.org/10.1177/0192513X231155657>.
- Robinson, Kathryn. "Regulation of Muslim Marriage in Indonesia: Political Challenges Across the Public/Private Divide." In *In Tandem – Pathways towards a Postcolonial Anthropology | Im Tandem – Wege Zu Einer Postkolonialen Ethnologie*, 189–208. Wiesbaden: Springer Fachmedien Wiesbaden, 2023. https://doi.org/10.1007/978-3-658-38673-3_11.
- Ruy Cardia Atchabahian, Ana Cláudia. "Article 16 – The Right to Marry and to Found a Family." In *The Universal Declaration of Human Rights*, 379–94. Leiden, The Netherlands: Brill | Nijhoff, 2023. https://doi.org/10.1163/9789004365148_018.
- Safi', Paul Atagamen Aidonojie, Muwaffiq Jufri, and Evis Garunja. *Bhag-Rembhag Sabbala'an as a Method of Resolving Religious Conflicts in the Madura Legal Tradition. El-Mashlahah*. Vol. 14, 2024. <https://doi.org/10.23971/el-mashlahah.v14i1.7819>.
- Sofia Mubarakah Sa'banah, and Rusdiana Navlia. "Tingginya Angka Cerai Gugat Di Kabupaten Sumenep & Dampaknya Bagi Anak." *Al-Manhaj: Journal of Indonesian Islamic Family Law* 5, no. 2 (December 31, 2023): 202–23. <https://doi.org/10.19105/al-manhaj.v5i2.13211>.
- Ssenyonjo, M. "Women's Rights to Equality and Non-Discrimination: Discriminatory Family Legislation in Uganda and the Role of Uganda's Constitutional Court." *International Journal of Law, Policy and the Family* 21, no. 3 (December 1, 2007): 341–72. <https://doi.org/10.1093/lawfam/ebm010>.

- Susilawati, Susi, Baliana Amir, Muhammad Iqbal, Rafika Nur, and Sitti Fatimah Maddusila. "Manifestations of Gender Injustice in Divorced Marriages: The Kabalutan Tradition." *Jambura Law Review* 5, no. 1 (January 30, 2023): 136–55. <https://doi.org/10.33756/jlr.v5i1.17722>.
- Vasandani, Malika Rajan, Dwi Putra Nugraha, and Susi Susantijo. "Affirmative Action Study on the Political Rights of Women in the Indonesian Constitution." *Constitutional Review* 8, no. 1 (May 31, 2022): 62. <https://doi.org/10.31078/consrev813>.
- Waaldijk, Kees. "The Right to Marry as a Right to Equality." In *Furthering the Frontiers of International Law: Sovereignty, Human Rights, Sustainable Development*, 457–72. Leiden, The Netherlands: Brill | Nijhoff, 2021. https://doi.org/10.1163/9789004459892_024.
- Wardatun, Atun, and Bianca J. Smith. "Woman-Initiated Divorce and Feminist Fiqh in Indonesia: Narrating Male Acts of Nushūz in Marriage." *Ulumuna* 24, no. 2 (December 31, 2020): 266–95. <https://doi.org/10.20414/ujs.v24i2.416>.
- Zulaiha, Eni, and Ayi Zaenal Mutaqin. "The Problems of The Marriage Age Changing in Indonesia in the Perspectives of Muslim Jurists and Gender Equality." *Hanifiya: Jurnal Studi Agama-Agama* 4, no. 2 (August 13, 2021): 99–108. <https://doi.org/10.15575/hanifiya.v4i2.13538>.