

Post-Divorce Rights of Women and Children in Pekalongan City, Central Java: Challenges in Islamic Law Analysis

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Abstract

The rights of women and children after divorce are often neglected. The article examines the reality of children's and women's rights in Pekalongan City, Central Java, Indonesia, focusing on the causes of non-fulfillment and the legal consequences. Data from 10 court decisions from the Pekalongan City Religious Court revealed a gap between post-court decision reality and the fulfillment of these rights. The research found that the non-fulfillment of children's and women's rights after divorce in Pekalongan is due to a lack of public knowledge about post-divorce execution procedures and related rights. The difficulty of spouses in ensuring the fulfillment of these rights is also reflected in the lack of application of Islamic legal knowledge on the obligation to provide maintenance by husbands. The legal consequences are devastating, emphasizing the need for improvements in the legal system, increased public knowledge, and the application of Islamic legal principles.

Keywords: children's rights; post-divorce; women's rights

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Hak-hak perempuan dan anak setelah perceraian seringkali terabaikan. Artikel ini mengkaji realitas hak-hak anak dan perempuan di Kota Pekalongan, Jawa Tengah, Indonesia, dengan fokus pada penyebab tidak terpenuhinya hak-hak tersebut dan konsekuensi hukumnya. Data dari 10 putusan Pengadilan Agama Kota Pekalongan menunjukkan adanya kesenjangan antara realitas pasca putusan dengan pemenuhan hak-hak tersebut. Penelitian ini menemukan bahwa tidak terpenuhinya hak-hak anak dan perempuan pasca perceraian di Pekalongan disebabkan oleh kurangnya pengetahuan masyarakat tentang prosedur eksekusi pasca perceraian dan hak-hak terkait. Kesulitan pasangan suami istri dalam memastikan pemenuhan hak-hak tersebut juga tercermin dari minimnya penerapan pengetahuan hukum Islam tentang kewajiban pemberian nafkah oleh suami. Konsekuensi hukumnya sangat buruk, menekankan perlunya perbaikan dalam sistem hukum, peningkatan pengetahuan masyarakat, dan penerapan prinsip-prinsip hukum Islam.

Kata Kunci: hak anak; pasca perceraian; hak perempuan

Introduction

The increase in cases in the Religious Courts every year always increases.¹ According to the Statistics Indonesia report, the number of divorce cases in Indonesia reached 516,334 cases in 2022. This figure increased by 15.31% compared to 2021 which reached 447,743 cases.² This situation poses a potential threat of injustice to the involved parties, consequently hindering the realization of their execution rights. Such issues are notably evident in the Pekalongan City Religious Court, where the rights of children and women are either unrealized or diverged from the substance of the court decisions. Even when considering a global perspective, divorce rates in Muslim-majority countries such as Indonesia,³ and Malaysia remain lower than those in Western countries.⁴ This phenomenon may also be influenced by factors such as unemployment, poverty, and inflation, which consistently impact the divorce rate in Malaysia.⁵

Following Article 1 of Law Number 1 of 1974, marriage is defined as a spiritual and physical union between a man and a woman, constituting a marital bond to establish a joyful and enduring family or household, grounded in the principles of God Almighty.⁶ In Islam, marriage is defined by scholars as a contract that legalizes sexual relations between a man and a woman who are not *mahram*.⁷ In reality, married life is not always devoid of obstacles. Certain circumstances may arise where the continuation of a marriage becomes

¹ Kamarusdiana Kamarusdiana et al, 'Pre-Marital Education: Concepts and Regulations in Indonesia and Malaysia', *al-Ahkam* 32, no. 1 (2022): 41-64, <https://doi.org/10.21580/ahkam.2022.32.1.10709>.

² Cindy Mutia Annur, 'Kasus Perceraian di Indonesia Melonjak Lagi pada 2022, Tertinggi dalam Enam Tahun Terakhir', *Databoks*, 1 March 2023, <https://databoks.katadata.co.id/datapublish/2023/03/01/kasus-perceraian-di-indonesia-melonjak-lagi-pada-2022-tertinggi-dalam-enam-tahun-terakhir>.

³ Tim Heaton and Mark Cammack, 'Explaining the Recent Upturn in Divorce in Indonesia: Developmental Idealism and the Effect of Political Change', *Asian Journal of Social Science* 39, no. 6 (2011): 776-96, <https://doi.org/10.1163/156853111X619229>.

⁴ Gavin Willis Jones, 'Muslim and Non-Muslim Divorce Trends in Southeast Asia in the 21st Century', *Asian Journal of Social Science* 51, no. 3 (2023): 137-45, <https://doi.org/10.1016/j.ajss.2023.04.004>.

⁵ Mohd Shahidan Shaari et al, 'Understanding the Role of Child Abuse in Divorce: A Socioeconomic Analysis Using the ARDL Approach', *Social Sciences & Humanities Open* 8, no. 1 (2023): 100762, <https://doi.org/10.1016/j.ssaho.2023.100762>.

⁶ Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 tentang Perkawinan, Pasal 1.

⁷ Ita Musarrofa and Holilur Rohman, 'Urf of Cyberspace: Solutions to the Problems of Islamic Law in the Digital Age', *al-Ahkam* 33, no. 1 (2023): 63-88, <https://doi.org/10.21580/ahkam.2023.33.1.13236>.

impractical, primarily due to potential risks or adverse effects on the welfare of the children.⁸ The Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) delineates three officially recognized reasons leading to the dissolution of marriage. First, the demise of one of the spouses can precipitate the breakdown of the marital union. Secondly, divorce emerges as an alternative, initiated either by the husband's desire (*cerai talak*) or the wife's petition (*cerai gugat*), with this process conducted through the Religious Court. Finally, a court decision or *fasakh* serves as the ultimate determinant of the marriage, wherein the judge, acting as a third party, decides based on the consideration that the continuity of the marital relationship is unfeasible. Consequently, the Compilation of Islamic Law delineates these three reasons as the legal foundation for terminating a marriage.⁹

With today's high divorce rates, many children around the world are caught up in custody conflicts between parents.¹⁰ The dissolution of marriage invariably entails legal consequences that are meticulously governed by legislation,¹¹ particularly concerning the rights incumbent upon the former husband vis-à-vis the former wife and children.¹² The connection between family law and gender equality holds significant importance in both anthropological discussions on the status of women in the Middle East and feminist movements.¹³ In the Middle East, the Arab Charter on Human Rights introduces a nuanced perspective on "equality between men and women" by incorporating the concept of "positive discrimination." This concept is elaborated upon in the Charter, which asserts that

⁸ Carole Bonnet, Bertrand Garbinti, and Anne Solaz, 'The Flip Side of Marital Specialization: The Gendered Effect of Divorce on Living Standards and Labor Supply', *Journal of Population Economics* 34, no. 2 (2021): 515–73, <https://doi.org/10.1007/s00148-020-00786-2>.

⁹ Muhammad Irfanudin Kurniawan and Adi Nur Rohman, 'Reasons for Divorce in the Compilation of Islamic Law: An Overview of Islamic Legal Psychology', *Krtha Bhayangkara* 17, no. 3 (2023): 495–504, <https://doi.org/10.31599/krtha.v17i3.3085>.

¹⁰ Ramdani Wahyu Sururie et al., 'Co-Parenting Model in Resolving Child Custody Disputes in Urban Muslim Families', *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 9, no. 1 (2024): 250–68, <https://doi.org/10.22373/petita.v9i1.277>.

¹¹ Amra Bone, 'Islamic Marriage and Divorce in the United Kingdom: The Case for a New Paradigm', *Journal of Muslim Minority Affairs* 40, no. 1 (2020): 163–78, <https://doi.org/10.1080/13602004.2020.1737412>.

¹² Diana Farid et al., 'Marriage and Divorce Practices in the Society of Bandung: Contestation of Islamic and State Law', *al-Qadha: Jurnal Hukum Islam dan Perundang-Undangan* 10, no. 1 (2023): 65–78, <https://doi.org/10.32505/qadha.v10i1.5673>.

¹³ Sarah Grosso, 'Women's Rights on Trial: Gender Equality in a Family Court in Ben Ali's Tunisia', in *The Asian Yearbook of Human Rights and Humanitarian Law* (Leiden: Brill | Nijhoff, 2019), 219–42, https://doi.org/10.1163/9789004401716_011.

“All individuals are afforded equal standing before the courts of law.”¹⁴ These matters are significant as they directly impact the rights of Muslim women.¹⁵ Functioning as a judicial institution, Religious Courts assume a pivotal role in guaranteeing the realization of women’s and children’s rights post-divorce.¹⁶ Supreme Court Regulation No. 3 of 2017 asserts the imperative role of judges in the judicial process, emphasizing their responsibility to safeguard women’s rights and ensure equal access to justice. This delineates a commitment to fostering gender justice and upholding the rights of children within the framework of divorce.¹⁷

The rights of women after divorce are regulated by Indonesian laws, namely Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law.¹⁸ Both regulations stipulate post-divorce rights for women, including *mut’ah* maintenance, *‘iddah* maintenance, housing and clothing, owed dowry, and joint assets.¹⁹ The court determines the type and amount of maintenance based on the application submitted by the woman. Children’s rights after divorce are governed by both the Marriage Law and the Compilation of Islamic Law (KHI), stating that children have the right to care, custody, and education from both parents.²⁰ Notably, the father bears the financial responsibility for the livelihood and education of the child post-divorce, as stipulated in the KHI under the concept of *nafaqah ḥaḍānah*.²¹ It reflects the parents’ responsibility to fulfill their obligations

¹⁴ Ahmed Mohamed El Demery, ‘Protecting Women and Children under Egyptian Family Law: A Journey of Increasing Rights’, in *Human Flourishing: The End of Law* (Leiden: Brill | Nijhoff, 2023), 631–74, https://doi.org/10.1163/9789004524835_021.

¹⁵ Ann Elizabeth Mayer, ‘Issues Affecting the Human Rights of Muslim Women’, in *Women and International Human Rights Law* (Leiden: Brill | Nijhoff, 2000), 367–77, https://doi.org/10.1163/9789004531130_015.

¹⁶ Bone, ‘Islamic Marriage and Divorce in the United Kingdom: The Case for a New Paradigm’. See also Sirman Dahwal and Dimas Dwi Arso, ‘Rights and Obligations of a Husband as a Civil Servant to His Ex-Wife after Divorce According to Indonesian Law’, *Bengkoelen Justice: Jurnal Ilmu Hukum* 13, no. 2 (2023): 244–73, <https://doi.org/10.33369/jbengkoelenjust.v13i2.31118>.

¹⁷ Olena Yara et al., ‘Legal Regulation of the Use of Artificial Intelligence: Problems and Development Prospects’, *European Journal of Sustainable Development* 10, no. 1 (2021): 281–89, <https://doi.org/10.14207/ejsd.2021.v10n1p281>.

¹⁸ Ni Putu Rai Yuliantini, ‘Legal Protection of Women And Children From Violence in the Perspective of Regional Regulation of Buleleng Regency Number 5 Year 2019’, *Jurnal Pendidikan Kewarganegaraan Undiksha* 9, no. 1 (2021): 89–96, <https://ejournal.undiksha.ac.id/index.php/JJPP/article/view/31431>.

¹⁹ Alfitri Alfitri, ‘Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia’, *Studia Islamika* 27, no. 2 (2020): 273–307, <https://doi.org/10.36712/sdi.v27i2.9408>.

²⁰ Yuliantini, ‘Legal Protection of Women And Children From Violence in the Perspective of Regional Regulation of Buleleng Regency Number 5 Year 2019’.

²¹ Heather Nancarrow et al., ‘Accurately Identifying the “Person Most in Need of Protection” in Domestic and Family Violence Law’, *ANROWS Research Reports* (Sydney, 2020),

to ensure the rights of the child, in accordance with the provisions of Law Number 23 of 2002 concerning Child Protection. However, in reality, there are still many cases where the rights of children and women (ex-wives) are not fulfilled after divorce, with many of these rights not being executed properly. Based on field research data, there are 10 decisions from the Religious Court of Pekalongan City where, in reality, the rights of children and women are not fulfilled after the divorce decisions in the Religious Court of Pekalongan City (see Table 1).

Drawing upon the findings presented in Table 1, it is evident that several divorce rulings in the Pekalongan City Religious Court, Central Jawa, Indonesia, have led to the non-fulfillment of rights for both children and women after divorce. These instances encompass diverse case types, encompassing both contested divorce (*cerai gugat*) and *talāq* divorce (*cerai talak*), and exhibit consistent patterns of non-compliance with entitlements, including child livelihood, ex-wife support, and joint property rights (*gono gini*).

Table 1
The Fact that Children and Women’s Rights are not Fulfilled after Divorce

No.	Decision	Case	Description
1.	Decision A	Determining <i>māḍiyah</i> maintenance, <i>iddah</i> maintenance, and <i>mut’ah</i> amounting to IDR 3,000,000.00 (three million Indonesian Rupiah), child support for a 3-year-old and a 5-year-old totaling IDR 1,000,000.00 (one million Indonesian Rupiah) per month.	Child support and the distribution of joint property rights (<i>gono gini</i>) are not fulfilled.
2.	Decision B	Determining <i>māḍiyah</i> maintenance (past), child support for a 2-year-old totaling IDR 1,000,000.00 (one million Indonesian Rupiah) per month, <i>iddah</i> maintenance totaling IDR 3,000,000.00 (three million Indonesian Rupiah), and <i>mut’ah</i> amounting to IDR 5,000,000.00 (five million Indonesian Rupiah).	Child and ex-wife livelihood are not fulfilled
3.	Decision C	Determining <i>māḍiyah</i> maintenance for 10 months amounting to IDR 15,000,000.00 (fifteen million Indonesian Rupiah), child support for a 1-year-old and an 11-year-old until adulthood or at least 21 years old totaling IDR 1,000,000.00 (one million Indonesian Rupiah) per month.	Child and ex-wife livelihood are not fulfilled.
4.	Decision D	<i>Māḍiyah</i> h maintenance for 4 months totaling IDR 2,000,000.00 (two million Indonesian Rupiah) and <i>iddah</i> for 3 months totaling IDR 1,500,000.00 (one million five hundred thousand Indonesian Rupiah), child support for a 2-year-old totaling IDR 1,000,000.00 (one million Indonesian Rupiah) per month.	Ex-wife livelihood, child livelihood, and joint property rights (<i>gono gini</i>) are not fulfilled.

<https://www.anrows.org.au/publication/accurately-identifying-the-person-most-in-need-of-protection-in-domestic-and-family-violence-law/>.

5.	Decision E	<i>Māḍiyah</i> , <i>iddah</i> , and <i>mut'ah</i> totaling IDR 6,000,000.00 (six million Indonesian Rupiah), child support for a 10-year-old until adulthood or at least 21 years old totaling IDR 800,000.00 (eight hundred thousand Indonesian Rupiah).	Ex-wife livelihood, child livelihood, and joint property rights (<i>gono gini</i>) are not fulfilled.
6.	Decision F	<i>Māḍiyah</i> , <i>iddah</i> , and <i>mut'ah</i> totaling IDR 2,000,000.00 (two million Indonesian Rupiah), and child support for a 3-year-old until adulthood or at least 21 years old totaling IDR 500,000.00 (five hundred thousand Indonesian Rupiah) per month.	Child and ex-wife livelihood are not fulfilled.
7.	Decision G	<i>Iddah</i> totaling IDR 300,000.00 (three hundred thousand Indonesian Rupiah), <i>māḍiyah</i> amounting to IDR 400,000.00 (four hundred thousand Indonesian Rupiah), <i>mut'ah</i> totaling IDR 1,000,000.00 (one million Indonesian Rupiah), child support for a 7-year-old until adulthood or at least 21 years old totaling IDR 1,000,000.00 (one million Indonesian Rupiah) per month.	Child and ex-wife livelihood are not fulfilled.
8.	Decision H	<i>Māḍiyah</i> for 1 year amounting to IDR 18,000,000.00 (eighteen million Indonesian Rupiah), <i>iddah</i> for 3 months totaling IDR 4,500,000.00 (four million five hundred thousand Indonesian Rupiah), <i>mut'ah</i> totaling IDR 1,500,000.00 (one million five hundred thousand Indonesian Rupiah), child support for a 6-year-old until adulthood or at least 21 years old totaling IDR 800,000.00 (eight hundred thousand Indonesian Rupiah) per month.	Child and ex-wife livelihood are not fulfilled
9.	Decision I	<i>Iddah</i> amounting to IDR 2,340,000.00 (two million three hundred forty thousand Indonesian Rupiah), <i>māḍiyah</i> totaling IDR 4,800,000.00 (four million eight hundred thousand Indonesian Rupiah), <i>mut'ah</i> totaling IDR 1,000,000.00 (one million Indonesian Rupiah), child support for a 13-year-old and a 5-year-old totaling IDR 2,000,000.00 (two million Indonesian Rupiah) per month.	Ex-wife livelihood, child livelihood, and joint property rights (<i>gono gini</i>) are not fulfilled.
10.	Decision J	<i>māḍiyah</i> totaling IDR 2,000,000.00 (two million Indonesian Rupiah), <i>iddah</i> totaling IDR 1,500,000.00 (one million five hundred thousand Indonesian Rupiah), <i>mut'ah</i> totaling IDR 4,500,000.00 (four million five hundred thousand Indonesian Rupiah), child support for a 10-month-old totaling IDR 1,000,000.00 (one million Indonesian Rupiah) per month.	Ex-wife livelihood, child livelihood, and joint property rights (<i>gono gini</i>) are not fulfilled.

Source: Field Research Data by the Researchers²²

Several pertinent studies are addressing the aforementioned issues, as outlined below. Firstly, Aziz Sholeh et al. authored a work, exploring knowledge dissemination and support as mechanisms for safeguarding the rights of women and children post-divorce).²³ Secondly, Ahmad Yani et al. delve into

²² Mahkamah Agung Republik Indonesia, <https://putusan3.mahkamahagung.go.id> and Interviews with informants were conducted personally from December 15-20, 2023.

²³ Aziz Sholeh, Dian Rachmat Gumelar, and Aah Tsamrotul Fuadah, 'Pendampingan Hak-Hak Perempuan dan Anak Pasca Perceraian', *JCIC: Jurnal CIC Lembaga Riset dan Konsultan Sosial* 1, no. 2 (2019): 80-99, <https://doi.org/10.51486/jbo.v1i2.19>.

women's rights in Islam, with a specific focus on women's entitlements following divorce. This investigation encompasses legal provisions within Law Number 1 of 1974 regarding Marriage (Marriage Law) and the Compilation of Islamic Law (KHI). These regulations address various aspects, such as *mut'ah* livelihood, *'iddah* livelihood, *maskan* and *kiswah* (residential and clothing allowances), outstanding dowry, and the equitable division of joint property.²⁴ Thirdly, Adriansyah et al. scrutinize the fulfillment of women's and children's rights after divorce in *verstek* decisions,²⁵ considering several crucial aspects. In a *verstek* decision, the party required to appear in court fails to do so, leading to a decision rendered without the direct involvement of that party.²⁶ Fourthly, Galuh Widitya Qomaro, in his article, aims to: 1) Identify the implications of contested divorce on the rights of post-divorce wives; 2) Assess the alignment of legal decisions in the Bangkalan Religious Court regarding the rights of post-divorce wives with the principles of gender justice.²⁷ Meanwhile, this paper seeks to delineate the realities concerning the rights of children and women in Pekalongan, analyze the underlying causes contributing to the non-fulfillment of their rights, and evaluate the ensuing legal ramifications.

This research adopts a juridical-sociological approach with a qualitative orientation, representing a legal research process designed to explore community behavior concerning the application of legal norms in social reality.²⁸ Specifically, the study investigates the rights of women and children after divorce in Pekalongan City, Indonesia. The utilized data encompass both primary and secondary sources. Primary data is directly acquired from the Pekalongan City Religious Court and the local community, particularly individuals whose post-divorce rights have not been realized. Secondary data consisted of books, scientific articles, laws and regulations, court decisions, and other legal documents.²⁹ Then

²⁴ Ahmad Yani, Sumarni Alam, and Edi Mulyadi, 'Perlindungan Hukum terhadap Hak-Hak Perempuan dan Anak Pasca Perceraian menurut Peraturan Perundang-Undangan yang Berlaku', *Jurnal Pemandhu* 2, no. 3 (2021): 299–313, <https://ejournal.unis.ac.id/index.php/JM/article/view/2173>.

²⁵ *Verstek* is a decision given when the defendant is not present or has not sent a representative to the court.

²⁶ Adriansyah Adriansyah, 'Pemenuhan Hak Perempuan dan Anak pada Putusan Verstek di Pengadilan Agama', *Fenomena: Jurnal Penelitian* 13, no. 2 (2021): 187–202, <https://journal.uinsi.ac.id/index.php/fenomena/article/view/4500>.

²⁷ Galuh Widitya Qomaro, 'Agensi Hakim Pengadilan Agama Bangkalan dalam Pemenuhan Hak Istri Pasca Cerai', *Mahkamah: Jurnal Kajian Hukum Islam* 6, no. 1 (2021): 63–78, <https://doi.org/10.24235/mahkamah.v6i1.7455>.

²⁸ Zainudin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2011), 105.

²⁹ Dena Ayu et al., 'A Sociological Approach to Consumer Protection in E-Commerce Transactions during the COVID-19 Pandemic', *Khazanah Hukum* 4, no. 3 (2022): 181–91,

analyzed and compiled legal arguments based on the literature that has been reviewed.³⁰ Therefore, this study conducted a comprehensive review of relevant literature to identify topics specific to the research focus.³¹ Data collection techniques involve interviews, documentation analysis, and observation. Data analysis employs the technique of data reduction, involving the presentation of selected data and the derivation of conclusions from the available dataset. The theoretical framework guiding this research is based on Mead's symbolic interactionism theory,³² and gender theory, considering both nurture and nature aspects.³³

The Reality of Children's and Women's Rights in Pekalongan City after Divorce

The research identified 10 cases exemplifying the post-divorce realities of children's and women's rights in Pekalongan City. The details of selected cases are as follows:

Decision A: This case involved a married spouse opting for a divorce through the contested divorce (*cerai gugat*) route. The husband, known by the initial "R," filed for divorce against the wife, "S." The subsequent court decision failed to ensure the fulfillment of child and ex-wife livelihood. In the interview, S expressed her disappointment, highlighting the economic difficulties she and the children faced post-divorce. She stated, "I find it extremely challenging to

<https://doi.org/10.15575/kh.v4i3.18690>; Shinta Azzahra Sudrajat, Arzam Arzam, and Doli Witro, 'Legal Protection in Labor Dispute Settlement through Industrial Relations Mechanism', *Khazanah Hukum* 4, no. 1 (2022): 1-9, <https://doi.org/10.15575/kh.v4i1.17027>; Muhamad Izazi Nurjaman and Doli Witro, 'The Relevance of the Theory of Legal Change according to Ibnu Qayyim al-Jauziyyah in Legal Products by Fatwa DSN-MUI Indonesia', *el-Mashlahah* 11, no. 2 (2021): 164-86, <https://doi.org/10.23971/elma.v11i2.3181>; Darti Busni et al, 'Implementation of the Hybrid Contract Concept in Multiservice Ijarah Financing as a Financing Alternative Health Service in the Covid-19 Pandemic', *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (2022): 11-25, <https://doi.org/10.31958/juris.v21i1.5173>.

³⁰ Firdaus Firdaus et al, 'Post-Divorce Child's Nafaqah Mādiyah: An Analysis of the Shifting from Fulfillment to the Assertion of Ownership Rights', *al-Ahkam* 33, no. 1 (2023): 45-62, <https://doi.org/10.21580/ahkam.2023.33.1.14566>.

³¹ Mhd Rasidin et al, 'The Mapping Verses and Application of the Linguistic Approach and Uṣūl Fiqh toward the Law of Adultery', *el-Mashlahah* 14, no. 1 (2024): 21-42, <https://e-journal.iain-palangkaraya.ac.id/index.php/maslahah/article/view/7354>.

³² Clark McPhail and Cynthia Rexroat, 'Mead vs. Blumer: The Divergent Methodological Perspectives of Social Behaviorism and Symbolic Interactionism', *American Sociological Review* 44, no. 3 (1979): 449-67, <https://doi.org/10.2307/2094886>.

³³ Rhea Ashley Hoskin and Karen L. Blair, 'Critical Femininities: A "New" Approach to Gender Theory', *Psychology & Sexuality* 13, no. 1 (2022): 1-8, <https://doi.org/10.1080/19419899.2021.1905052>.

navigate life post-divorce. R has failed to fulfill his obligations to provide financial support to both the children and me.”³⁴

Decision B: In this case, a married spouse, identified by the initials “M” for the husband and “N” for the wife, filed for divorce. The court decision did not guarantee the fulfillment of child and ex-wife livelihood. The husband, M, failed to meet his post-divorce obligations. During the interview, N expressed her disappointment and economic hardship, stating, “It is very difficult for me and the children after this divorce. M was supposed to provide financial support, but it did not happen.”³⁵

Decision C: This case involved a spouse choosing to terminate their marriage through a contested divorce. The husband, “A” and the wife “B” did not meet child livelihood and ex-wife livelihood obligations post-divorce. In the interview, B expressed frustration with the challenging economic situation she and the children were confronting. She stated, “After the divorce, our life became difficult. A was supposed to provide support, but it did not happen.”³⁶

Decision D: In this case, a spouse opted for the intricate route of a contested divorce. The husband, identified as “H” and the wife “K” encountered post-divorce challenges related to alimony for the ex-wife, child support, and the realization of joint property (*gono gini*) rights. The non-fulfillment of these rights was attributed to the actions of the husband, H. During the interview, K expressed dissatisfaction and economic hardship, stating, “I feel neglected after this divorce. H has not fulfilled the rights that we should have received.”³⁷

Decision E: This case involved a spouse who initiated divorce proceedings, mirroring the circumstances of the previous case. The husband, “D” and the wife “L” experienced a contested divorce where the obligation to provide a livelihood for the ex-wife and children remained unmet. D failed to fulfill these obligations post-divorce. In the interview, L expressed difficulties and disappointment with this situation, stating, “I hope the divorce does not harm the children and me. D was supposed to provide support, but it did not happen.”³⁸

Decision F: This case featured a divorce carried out through the divorce method, involving the sixth spouse identified as “E” for the husband and “P” for

³⁴ S, R's wife, was interviewed personally in Kertoharjo Subdistrict on December 20, 2023.

³⁵ N, M's wife, was interviewed personally in Noyontaansari Subdistrict on December 16, 2023.

³⁶ B, A's wife, was interviewed personally in Bandengan Subdistrict on December 16, 2023.

³⁷ K, H's wife, was interviewed personally in Kandang Panjang Subdistrict on December 15, 2023.

³⁸ L, D's wife, was interviewed personally in Kauman Poncol Subdistrict on December 17, 2023.

the wife. Despite the differing divorce method, this judgment also resulted in the nonfulfillment of rights, including child livelihood and ex-wife livelihood. The husband, E, was implicated in this non-compliance. P, in the interview, expressed disappointment with the post-divorce situation, stating, "I hope a divorce (*talak*) does not make our life even more difficult. E should still fulfill his obligations."³⁹

Decision G: This divorce case, conducted through the divorce method, involved the seventh spouse identified as "X" for the husband and "Y" for the wife. A consistent pattern of unfulfilled rights, particularly concerning child livelihood and ex-wife entitlements, emerged in this case. The husband, X, was implicated in this disenfranchisement. Y, during the interview, expressed frustration and economic hardship, stating, "I hope a divorce (*talak*) does not make our life even more difficult. X should fulfill his obligations."⁴⁰

Decision H: In this case, a divorce was initiated using the *ṭalāq* method by the eighth spouse, identified as "C" for the husband and "Q" for the wife. Post-divorce, the rights of the children and the ex-wife were not met. The husband, C, was implicated in this lack of fulfillment. Q, in the interview, expressed disappointment and economic hardship, stating, "I did not expect post-divorce life to be this challenging. C must continue to fulfill his obligations."⁴¹

Decision I: This divorce case, executed through the divorce method and characterized by intricate aspects, involved the ninth spouse, identified as "U" for the husband and "V" for the wife. Within the context of this more complex divorce, encompassing aspects such as ex-wife livelihood, child support, and joint property rights (*gono gini*), these rights were not realized post-divorce. The husband, U, was implicated in the non-fulfillment of these obligations. During interviews, V expressed dissatisfaction and economic hardship, stating, "P, E's wife, was interviewed personally in Medono Subdistrict on December 18, 2023."⁴²

Decision J: In this divorce case, executed through the divorce method, the tenth spouse, identified as "Z" for the husband and "W" for the wife, encountered non-fulfillment of the ex-wife's livelihood, child support, and joint property (*gono gini*) rights post-divorce. The husband, Z, was implicated in the neglect of these rights. During the interview, W expressed disappointment and economic

³⁹ Y, X's wife, was interviewed personally in Klego Subdistrict on December 15, 2023.

⁴⁰ P, E's wife, was interviewed personally in Medono Subdistrict on December 18, 2023.

⁴¹ P, E's wife, was interviewed personally in Medono Subdistrict on December 18, 2023.

⁴² V, U's wife, was interviewed personally in Panjang Wetan Subdistrict on December 18, 2023.

hardship, stating, "I hope the divorce does not make our life like this. U must fulfill his obligations."⁴³

Based on the outcomes of interviews with ten spouses who underwent divorce proceedings at the Pekalongan City Religious Court, it can be inferred that a discernible pattern exists regarding the non-fulfillment of women's and children's rights post-divorce. Despite the variations in the types of divorce, encompassing both *gugat* and *talak* methods, analogous patterns of unfulfilled rights emerged, encompassing neglected child livelihood, ex-wife livelihood, and joint property rights (*gono gini*).

Causes of Non-fulfillment of Children's and Women's Rights after Divorce in Pekalongan City

Human actions are shaped by the meanings they attribute to situations. Drawing upon Mead's theory, human behavior is driven by the meanings individuals ascribe to themselves, a process influenced by various factors:⁴⁴

Mindset

The mindset is shaped by individuals' understanding of child adoption laws, encompassing both positive legal frameworks and Islamic law. Legal knowledge, in this context, pertains to an individual's comprehension of specific regulations delineated in written and unwritten laws.⁴⁵ Indonesia is a state of law, which means that everyone, including the authorities, must be subject to the same laws.⁴⁶ According to the findings of research conducted within Muslim communities in Pekalongan, the informants' legal knowledge falls into two categories: positive legal knowledge, encompassing execution procedures, post-divorce rights of ex-wives, and children's rights; and Islamic legal knowledge, focusing on a husband's obligation to provide livelihood rights to ex-wives and children after divorce.

⁴³ W, Z's wife was interviewed personally in Sapuro Kebulen Subdistrict on December 20, 2023.

⁴⁴ Ari Rohmawati et al., 'Portrait of Social Interaction among the Vilagers in the Perspective of George Herbert Mead's Symbolic Interactionism Theory', *International Journal on Advanced Science, Education, and Religion* 4, no. 1 (2021): 41–49, <https://doi.org/10.33648/ijoaser.v4i1.94>; See also Herbert Blumer, *Symbolic Interactionism: Perspective and Method* (Oakland: University of California Press, 1986).

⁴⁵ Zainudin Ali, *Sosiologi Hukum* (Jakarta: Sinar Grafika, 2002), 100.

⁴⁶ Mukhlis Latif and Muhammad Mutawalli, 'Fiqh of Civilization in Building a Legal State: The Relevance of Muhammad Arkoun's Thought', *al-Ahkam* 33, no. 2 (2023): 207–30, <https://doi.org/10.21580/ahkam.2023.33.2.16643>.

Education emerges as a crucial determinant influencing individuals' legal knowledge. Those informants whose post-divorce rights remain unfulfilled often lack awareness and understanding of execution procedures, the rights of ex-wives after divorce, and children's rights according to positive law. Individuals from less-educated and lower-income backgrounds tend to be more accepting of marital dissolution. In such cases, women often exhibit reduced tolerance for behaviors such as domestic violence, infidelity, and failure to provide financial support by their spouses.⁴⁷ The majority of this group has received education only up to the levels of Elementary School (SD) and Junior High School (SMP/MTs). Conversely, informants possessing knowledge about execution procedures, the rights of ex-wives after divorce, and children's rights predominantly hold Bachelor's degrees.⁴⁸ Consequently, the level of education serves as a contributing factor to the development of legal knowledge within the community, aligning with applicable legal procedures.

Based on the data presented in Table 2, it can be deduced that the level of community knowledge concerning the rights of children and women after divorce in Pekalongan City remains inadequate. Among the 10 spouses surveyed as informants, none demonstrated familiarity with both positive law and Islamic law about these rights. Consequently, they encounter challenges in comprehending post-divorce execution procedures, particularly concerning child support, rights of ex-wives, and joint property entitlements. For instance, spouses R and S, M and N, A and B, H and K, D and L, E and P, X and Y, C and Q, U and V, and Z and W exhibited a lack of awareness regarding post-divorce procedures and rights. The prevalent non-fulfillment of these rights underscores the deficiency in applying Islamic legal knowledge concerning husbands' obligations to provide livelihood and a restricted comprehension of positive laws governing divorce matters. Through analysis, it becomes evident that a majority of informants encounter difficulties in comprehending their post-divorce rights, with a notable lack of awareness regarding execution procedures and husbands' obligations in Islam representing a significant contributing factor. Consequently, the rights and responsibilities of children and ex-wives post-divorce remain unmet, particularly among the informants examined in the decisions rendered by the Pekalongan City Religious Court.

⁴⁷ Rachel Rinaldo, Eva F. Nisa, and Nina Nurmila, 'Divorce Narratives and Class Inequalities in Indonesia', *Journal of Family Issues* 45, no. 5 (2024): 1195-1216, <https://doi.org/10.1177/0192513X231155657>.

⁴⁸ Results of personal interviews with informants on December 15-20, 2023.

Table 2
Knowledge Index and Analysis of Children's and Women's Rights
after the Divorce in Pekalongan City

No.	Informant	Legal Knowledge	Analysis
1.	Spouse R and S	Not Knowing	Spouse R and S showed a lack of understanding of the post-divorce execution procedures, especially regarding child and ex-wife livelihood.
2.	Spouse M and N	Not Knowing	Spouse M and N showed confusion in understanding the execution procedure.
3.	Spouse A and B	Not Knowing	Spouse A and B in Decision C appeared to have difficulty in understanding the post-divorce execution procedure.
4.	Spouse H and K	Not Knowing	Spouse H and K in Decision D faced a lack of post-divorce rights, including ex-wife livelihood, child livelihood, and joint property rights (<i>gono gini</i>).
5.	Spouse D and L	Not Knowing	In Decision E, spouse D and L faced difficulties in ensuring the fulfillment of the ex-wife's livelihood, child livelihood, and joint property rights after the divorce.
6.	Spouse E and P	Not Knowing	Spouse E and P in Decision F faced unfulfilled rights, particularly child and ex-wife livelihood after the divorce.
7.	Spouse X and Y	Not Knowing	Spouse X and Y in Decision G also experienced a lack of post-divorce rights, particularly concerning child and ex-wife livelihood.
8.	Spouse C and Q	Not Knowing	Spouse C and Q in Decision H faced a lack of post-divorce rights, including child and ex-wife livelihood.
9.	Spouse U and V	Not Knowing	Spouse U and V in Decision I faced a lack of rights, including ex-wife livelihood, child livelihood, and joint property rights (<i>gono gini</i>).
10.	Spouse Z and W	Not Knowing	Spouse Z and W in Decision J faced a lack of rights, particularly concerning ex-wife livelihood, child livelihood, and joint property rights (<i>gono gini</i>).

Source: Field Research Data

Self-Concept

According to Mead, an individual functions as a conscious and reflective agent, constructing their identity through what is termed the self (self-concept), an ongoing process wherein individuals perceive, evaluate, and attribute meaning to their experiences, subsequently guiding their actions based on these

interpretations.⁴⁹ Self-influence emerges as a predominant factor in child adoption.⁵⁰ Through field research, several reasons are identified for why informants (ex-husbands) fail to fulfill the rights of children and ex-wives post-divorce, including:

Firstly, economic constraints: Ex-husbands often encounter financial challenges following divorce, which can impede their capacity to meet child support and ex-wife livelihood obligations. Secondly, emotional turmoil: The presence of emotional conflict and tension post-divorce can diminish one's willingness to cooperate in fulfilling the rights of former spouses and children. Negative emotions or resentment may serve as barriers. Thirdly, dissent with court rulings: Ex-husbands may disagree or express dissatisfaction with court decisions regarding child support and ex-wife livelihood, potentially impacting their adherence to these obligations. Fourthly, limited legal knowledge: A lack of understanding or familiarity with positive and Islamic law about post-divorce responsibilities can hinder ex-husbands from fulfilling these rights. Lastly, social and environmental influences: The social and environmental milieu surrounding ex-husbands, such as familial support or societal pressures, may also influence their decision to either fulfill or neglect post-divorce obligations.

Society (Developing into a Habit)

In Pekalongan City, the prevalent practice of neglecting the rights of children and women after divorce, as evidenced by the presented court data, signifies a behavioral pattern that has evolved into a cultural or habitual phenomenon in addressing divorce situations. Aligning with Mead's concept within the theory of symbolic interactionism,⁵¹ wherein individuals can cultivate life habits within their community, the residents of Pekalongan City engage in practices that contribute to the non-fulfillment of these rights.

Through interviews with multiple informants, it becomes evident that the practice of disregarding post-divorce rights has been ingrained in community life for a significant duration. In Mead's framework, this aligns with the concept of Society, where behavioral patterns constitute shared responses or habits of

⁴⁹ Sarah Hewitt et al., 'Grounded Theory Method and Symbolic Interactionism: Freedom of Conceptualization and the Importance of Context in Research', *Forum Qualitative Sozialforschung Forum: Qualitative Social Research* 23, no. 3 (2022), <https://doi.org/10.17169/fqs-23.3.3807>.

⁵⁰ Results of personal interviews with informants on December 15-20, 2023.

⁵¹ Rohmawati et al., 'Portrait of Social Interaction among the Vilagers in the Perspective of George Herbert Mead's Symbolic Interactionism Theory'.

communal existence forged through social interaction. The communities in Pekalongan City, via the habitual practice of not fulfilling post-divorce rights, indirectly shape mindsets, ideas, and attitudes regarding the responsibility to support children and ex-wives. Social interactions within this community confer the meaning that neglecting these rights has become a commonplace and reasonably accepted occurrence, not perceived as a norm violation.⁵² As elucidated in Mead's theory⁵³, social interactions and collective community responses give rise to specific habits or cultures. In this context, despite the act of neglecting post-divorce rights contradicting applicable laws, regulations, and Islamic principles, its persistence is challenging to eradicate as it has become ingrained as a norm in society. Therefore, endeavors to enhance legal understanding and transform these cultural norms into supportive mechanisms for the fulfillment of post-divorce rights assume paramount importance in fostering positive societal changes.

Legal Consequences of Not Fulfilling the Rights of Children and Women after Divorce in Pekalongan City

Legal consequences denote the outcomes arising from legal actions. As argued by Soeroso:⁵⁴ "legal consequences ensue from behaviors or attitudes undertaken by individuals whose conduct has been regulated by law." The failure to fulfill the rights of women and children after divorce in Pekalongan City leads to several legal ramifications impacting the rights and obligations of the involved parties, particularly the ex-husband, ex-wife, and children affected by the divorce. The ensuing are some of the legal consequences that may transpire: Firstly, concerning the children, the deprivation of livelihood rights. Children who fall victim to the non-fulfillment of post-divorce rights may lose the entitlement to livelihood that should be provided by the ex-husband. This could significantly impact the overall life and development of the children. Furthermore, the absence of post-divorce rights fulfillment may engender

⁵² Jacqueline S. DeAnda et al., 'After the marriage is over: Mothers' Separation Distress and Children's Postdivorce Adjustment', *Family Relations* 69, no. 5 (2020): 1113-27, <https://doi.org/10.1111/fare.12434>.

⁵³ Hewitt et al., 'Grounded Theory Method and Symbolic Interactionism: Freedom of Conceptualization and the Importance of Context in Research'.

⁵⁴ R. Soeroso, *Pengantar Ilmu Hukum* (Jakarta: Sinar Grafika, 2011), 295. See also Gustav Radbruch, 'Law's Image of the Human', *Oxford Journal of Legal Studies* 40, no. 4 (2020): 667-81, <https://doi.org/10.1093/ojls/gqaa026>.

uncertainty regarding children's inheritance rights, particularly if these rights are unrecognized or not legally regulated.

Secondly, regarding the ex-wife, the failure to fulfill livelihood rights entails significant economic repercussions. An ex-wife not receiving livelihood in accordance with the divorce decree faces a substantial economic burden, affecting both her own welfare and that of her children. Additionally, the failure to fulfill joint property rights (*gono gini*) may result in the ex-wife forfeiting her rightful share of the joint property.

Thirdly, for ex-husbands, legal risks ensue. Ex-husbands who neglect their livelihood obligations, joint property rights, or other entitlements may confront legal risks, including potential lawsuits initiated by ex-wives or children. Furthermore, the failure to meet post-divorce rights may lead to fines imposed on the ex-husband.

The legal consequences of non-fulfillment of the rights of children and women after divorce, as evidenced in the decisions of the Pekalongan City Religious Court, give rise to a pronounced imbalance and gender discrimination and the mother's capacity to provide for the child's welfare.⁵⁵ Within this context, women and children become more susceptible to rights violations and systemic injustice.⁵⁶ On a humanitarian plane, this engenders a crisis demanding earnest attention.⁵⁷ Primarily, the fundamental rights of women and children to livelihood, protection, and justice in divorce must be guaranteed without discrimination.⁵⁸ In instances where court decisions fall short of ensuring the realization of these rights, gender inequality is perpetuated, sustaining conditions of structural injustice. In this scenario, women and children become not only victims of divorce but also victims of a legal system that cannot furnish robust protection.⁵⁹ Secondly, the humanitarian crisis

⁵⁵ Taufiq Saleh, Khalisah Hayatuddin, and Arif Wisnu Wardhana, 'Factors of Unfulfilled Rights of Wife and Children as Consequences of Divorce in Religious Court Decisions', *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 23, no. 1 (2023): 85–96, <https://doi.org/10.19109/nurani.v23i1.16644>.

⁵⁶ Hoskin and Blair, 'Critical Femininities: A "New" Approach to Gender Theory'.

⁵⁷ Michaela Kreyenfeld and Heike Trappe, 'Introduction: Parental Life Courses After Separation and Divorce in Europe', in *Parental Life Courses after Separation and Divorce in Europe* (Cham, Switzerland: Springer, 2020), 3–21, https://doi.org/10.1007/978-3-030-44575-1_1.

⁵⁸ Bonnet, Garbinti, and Solaz, 'The Flip Side of Marital Specialization: The Gendered Effect of Divorce on Living Standards and Labor Supply'.

⁵⁹ Kristina Pujasari Sitompul et al., 'The Position of Islamic Law in Fulfilling Women's Rights during the Iddah Period', *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 8, no. 1 (2024): 532, <https://doi.org/10.58258/jisip.v8i1.6316>.

resulting from these circumstances is undeniably tangible.⁶⁰ Children deprived of their rights, including livelihood and protection, confront serious welfare risks. This crisis materializes in the form of educational disparities, compromised health outcomes, and limited access to essential resources. Women, often lacking adequate protection, find themselves thrust into economic and social insecurity, perpetuating a vicious cycle that proves challenging to break.⁶¹ The emergence of various conflicts in the family often starts with economic problems.⁶² Gender inequality within the realm of divorce not only inflicts harm on individuals but also generates systematic impacts, leading to the division and suboptimal utilization of human resources.⁶³ Addressing these issues is imperative to foster a more equitable and just environment for women and children, ensuring their rights are safeguarded and human potential is maximized.⁶⁴

The nature school of gender theory posits that disparities in gender roles are inherent and intrinsic to the individual's innate condition.⁶⁵ In the specific context of post-divorce rights in Pekalongan, a perspective prevails suggesting that certain roles, such as breadwinning and childcare, are inherently linked to individuals based on their gender. This outlook contributes to an unequal distribution of rights for women post-divorce. Conversely, the nurture school in Gender Theory emphasizes that gender roles are more influenced by societal culture and customs.⁶⁶ These roles are deemed interchangeable and can be

⁶⁰ DeAnda et al., 'After the marriage is over: Mothers' Separation Distress and Children's Postdivorce Adjustment'.

⁶¹ Ya-Hui Huang and Yan Ma, 'Climate Change and Divorce Behavior: Implication for Family Education', *Innovation and Green Development* 3, no. 1 (2024): 100115, <https://doi.org/10.1016/j.igd.2023.100115>.

⁶² Mhd. Rasidin, Natardi Natardi, and Doli Witro, 'The Impact of Unequal Marriage on Household Harmony (Case Study in Sungai Penuh City, Jambi)', *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 2 (2020): 314–36, <https://doi.org/10.22373/sjhk.v4i2.8083>.

⁶³ Kholidah et al., 'Violation of Women's Rights on Divorce: Study on Religious Court Decision', *Journal of Law and Sustainable Development* 11, no. 6 (2023): e1230, <https://doi.org/10.55908/sdgs.v11i6.1230>.

⁶⁴ Nilüfer Uyar and İbrahim Yildirim, 'Post-Divorce Emotion/Social Adjustment of Women: Effectiveness of a Psycho-Education Program Based on Cognitive Behavioral Theory', *Türk Psikolojik Danışma ve Rehberlik Dergisi* 13, no. 70 (2023): 330–44, <https://doi.org/10.17066/tpdrd.1265738.5>.

⁶⁵ Hoskin and Blair, 'Critical Femininities: A "New" Approach to Gender Theory'.

⁶⁶ Mursyid Djawas et al., 'The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law', *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022): 207–19, <https://ojs.iainbatusangkar.ac.id/ojs/index.php/Juris/article/view/7495>.

assumed by both men and women. In the post-divorce context, this viewpoint helps recognize that the unequal rights of children and women after divorce are intricately tied to the cultural norms and customs of the local community. In both paradigms, the unfulfilled rights of children and women post-divorce can be comprehended as a consequence of gender perspectives ingrained in the culture and norms of the Muslim community in Pekalongan, ultimately leading to a humanitarian crisis that disproportionately affects weaker and more vulnerable groups.

The establishment of positive and Islamic laws about the rights of women and children after divorce holds paramount significance in ensuring justice and welfare for all involved parties.⁶⁷ Insights garnered from cases in Pekalongan City underscore the imperative to enhance community awareness regarding these rights, particularly in the execution of court decisions and understanding the husband's obligations following Islamic teachings. Given the discerned lack of knowledge from interviews, reinforcing legal education approaches and socializing positive and Islamic legal norms becomes imperative.⁶⁸ Additionally, the pivotal role of institutions handling divorce cases, such as courts and law enforcement agencies, cannot be overstated in providing effective comprehension and implementation of women's and children's rights post-divorce.⁶⁹

In the long run, these measures are anticipated to reshape individuals' mindsets, foster legal awareness, and enhance compliance with established regulations. Through these concerted efforts, the aspiration is to ensure the robust protection of the rights of women and children after divorce and the effective integration of positive and Islamic legal norms into the fabric of daily life. Collaborative endeavors from various stakeholders, including the government, educational institutions, and community organizations, are instrumental in effecting positive changes toward justice and enhanced rights

⁶⁷ Etin Anwar, *Gender and Self in Islam* (London: Routledge, 2006), <https://doi.org/10.4324/9780203799628>.

⁶⁸ Sitompul et al., 'The Position of Islamic Law in Fulfilling Women's Rights during the Iddah Period'. See also 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 (2020): 266–95, <https://doi.org/10.20414/ujis.v24i2.416>.

⁶⁹ Hoskin and Blair, 'Critical Femininities: A "New" Approach to Gender Theory'. See also Nida Farhani Mubarakah, Nisaul Hasanah, and Uswatun Mahmudah, 'The Concept of Feminism in Islamic Education', *Nazhruna: Jurnal Pendidikan Islam* 4, no. 3 (2021): 646–62, <https://doi.org/10.31538/nzh.v4i3.1634>.

protection. Other than that, the government addresses this situation by conducting pre-marital courses, delivering marriage sermons to reinforce family bonds and discourage divorce, organizing happy family contests, and formulating a marriage guidance module for brides and grooms. These initiatives signify the government's function and role in proactively responding to the rising divorce rates to uphold social system stability.⁷⁰ The principle of premarital marriage guidance is seen as an initiative to deter divorces while upholding the provisions of Law No. 1 of 1974, representing the teachings of the Holy Book al-Qur'an. The goal is to establish marriages that lead to a content and enduring family life, guided by the principles of God Almighty. Although premarital marriage guidance has demonstrated an impact on household resilience, there is a need for further optimization, given the persistent increase in divorce rates from year to year.⁷¹

Conclusion

This article finds that the causes of the non-fulfillment of the rights of children and women after divorce in Pekalongan can be drawn from several factors. Firstly, the a lack of public knowledge regarding post-divorce execution procedures and associated rights. This is reflected in the difficulty of couples to ensure the fulfillment of post-divorce rights. Secondly, the lack of application of Islamic legal knowledge on the obligation to provide maintenance rights by the husband, which leads to limitations in the understanding and implementation of related legal aspects. The legal consequences arising from the non-fulfillment of children's and women's rights following divorce decisions in Pekalongan are detrimental. Firstly, the basic rights of women and children to maintenance, protection and justice in divorce must be ensured without discrimination. If court decisions are unable to guarantee the fulfilment of these rights, this creates gender inequality that perpetuates conditions of structural injustice. Secondly, the impact on the humanitarian crisis is very real. Children who are denied their rights, such as maintenance and protection, face serious welfare risks. This crisis manifests itself in the form of inequalities in education, health, and access to

⁷⁰ Mursyid Djawas et al., 'The Government's Role in Decreasing Divorce Rates in Indonesia: A Study of Its Factors and Impacts in Aceh and South Sulawesi', *Ahkam: Jurnal Ilmu Syariah* 21, no. 1 (2021), <https://doi.org/10.15408/ajis.v21i1.20870>.

⁷¹ Muhammad Irfan et al., 'Reflection of a Decade of Pre-Marriage Guidance on Family Resilience in Indonesia', *SMART: Journal of Sharia, Tradition, and Modernity* 1, no. 2 (2021): 188, <https://doi.org/10.24042/smartv1i2.11353>.

other resources. Third, gender inequalities are glaring and discriminatory, especially disadvantaging women and children in terms of protection and maintenance after divorce.

Women and children, who often lack protection, are also plunged into economic and social insecurity, creating a cycle that is difficult to break. Women and children in this context are not only victims of divorce but also victims of a weak legal system that is unable to provide strong protection. Thus, increasing public knowledge, and applying the principles of Islamic law on post-divorce rights and obligations is crucial to creating protection for the rights of children and women in Pekalongan after divorce.[a]

Author Contribution Statement

Syukrawati Syukrawati: Conceptualization; Funding Acquisition; Project Administration; Resources.

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Doli Witro: Data Curation; Writing, Review & Editing; Revision.

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