



Persistensi Post-Divorce Women from the Perspective of Islamic Law

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Abstract

The divorce in Islamic family law is not merely the termination of a marital bond, but a legal event that produces continuing responsibilities regarding maintenance, dignity, child care, and access to justice. This article examines the gap between the normative recognition of post-divorce rights and their practical fulfillment in Indonesia's Religious Courts. The study uses normative legal research supported by qualitative document analysis. Primary legal materials include Islamic family law norms, the Marriage Law, the Compilation of Islamic Law, Supreme Court regulations, and human rights instruments. Secondary materials include classical fiqh, maqasid al-shari'ah scholarship, legal protection theory, legal system theory, and empirical studies from 2017-2025. The analysis shows that iddah maintenance, mut'ah, unpaid dower, child maintenance, and hadhanah should be interpreted as instruments of substantive protection rather than discretionary generosity from former husbands. Empirical studies indicate that women's post-divorce rights often fail because of limited legal literacy, patriarchal legal culture, passive pleadings, inconsistent ex officio judicial authority, and weak enforcement mechanisms. This article argues that post-divorce protection must move from textual entitlement to executable justice through gender-sensitive adjudication, clear rulings, salary deduction mechanisms, institutional interconnection, and community-based legal assistance. In maqasid terms, the protection of divorced women safeguards life, property, lineage, dignity, and family continuity.

Keywords: Post-Divorce Women, Islamic Law, Persistensi Post-Divorce

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INTRODUCTION

Marriage, under Islamic law and Indonesian national law, is an institution that unites the dimensions of worship, contract, social responsibility, and family protection. Law Number 1 of 1974 defines marriage as a physical and spiritual bond between a man and a woman to form a happy and eternal family based on the One Almighty God, while the Compilation of Islamic Law defines it as a very strong contract or mitsaqan ghalizan (Republic of Indonesia, 1974, 1991). The revision of the minimum age for marriage through Law Number 16 of 2019 demonstrates that the state not only recognizes marriage as a private relationship but also regulates it to protect the dignity, health, education, and future of women (Republic of Indonesia, 2019). Within this framework, divorce cannot be interpreted as a total severance of responsibilities, because the rights and obligations arising from the marriage contract continue to have legal consequences after the marital relationship ends.

In the jurisprudence of munakahat, the marriage contract gives rise to obligations of dowry, maintenance, proper social interaction, maintenance of lineage, and family responsibilities. Al-Zuhayli explained that a wife's economic rights do not exist outside the contract but are part of the legal consequences inherent in the marital relationship (al-

Zuhayli, 1985). Abu Zahrah also explained that marriage is an instrument of sharia to establish peace, protect offspring, and organize social relations with dignity (Abu Zahrah, 1957). Sayyid Sabiq emphasized that divorce is recognized as a solution, but it should not be used indiscriminately because its impact extends to women, children, and the family structure (Sabiq, 2009). These principles demonstrate that post-divorce protection for women is not at the mercy of the ex-husband, but rather a legal obligation arising from a valid contract.

The maqasid al-shari'ah framework expands on this interpretation. Al-Shatibi views sharia as a system directed at preserving religion, soul, reason, lineage and property (al-Shatibi, 1997). Ibn Ashur developed maqasid by emphasizing the benefit of the family, orderly lines and human dignity (Ibn Ashur, 2006). Auda then offers a systems approach that assesses law through openness, multidimensionality, and alignment with the fulfillment of human rights (Auda, 2008). In the context of divorce, maqasid helps to see iddah maintenance as protection for the transition period, mut'ah as restoration of dignity, hadhanah as child care, and child support as a guarantee of family continuity. Without effective implementation, these norms lose their beneficial power.

The academic problem of this article lies in the gap between norms and reality. Normatively, Indonesian Islamic family law regulates iddah, mut'ah, payment of dowry, hadhanah and child support. Supreme Court Regulation Number 3 of 2017 also directs judges to adjudicate cases involving women in conflict with the law with sensitivity to inequality in relations, gender stereotypes, and barriers to access to justice (Supreme Court of the Republic of Indonesia, 2017). However, various recent studies indicate that women's rights after divorce remain frequently unfulfilled. Research in Pekalongan revealed low levels of knowledge of the execution procedures and weak compliance by ex-husbands (Syukrawati et al., 2024). A study in Unaaha found that only a small proportion of divorce cases explicitly stipulated the fulfillment of the rights of wives and children (Suriani et al., 2024). Studies in various Religious Courts also confirmed that default cases, the stigma of nusyuz, and the lack of gender sensitivity among judges complicate the mission of protecting women (Yuni & Haries, 2024).

These issues are inseparable from the economic structure and legal culture. International research on the economic consequences of divorce consistently shows that women tend to suffer greater declines in well-being than men due to the division of domestic labor, childcare, and income dependence during marriage (Bonnet et al., 2021; Brüggmann & Kreyenfeld, 2023; Leopold, 2018; Smock et al., 2024). In Indonesia, the rise in divorce is linked to economic stress, domestic violence, and social change, so post-divorce protection needs to be situated within a broader landscape of vulnerability (Kustanto et al., 2025). A study by Rinaldo, Nisa, and Nurmila shows that the narrative of divorce in Indonesia is also influenced by social class; women with better economic and educational access can more actively formulate legal choices, while lower-class women are more vulnerable to losing their rights (Rinaldo et al., 2024).

The international literature on Muslim family law demonstrates a diverse reform trajectory. Alfitri demonstrates that the state, family law, and Islamic interpretations can serve as tools to protect women from violence, but their effectiveness depends on the.

METHOD

This study uses a normative legal method supported by a qualitative literature approach. The normative legal method was chosen because the main issue of the article is the interpretation of norms, principles, doctrines, and institutional mechanisms that regulate women's rights after divorce. Normative legal research allows for analysis of the consistency between Islamic jurisprudence norms, statutory norms, Supreme Court policies, and court decision practices (Marzuki, 2017; Soekanto & Mamudji, 2014). The qualitative approach was used because the article does not quantify respondent behavior, but rather interprets the meaning of law in documents, theories, and previous empirical findings. Document analysis is relevant to systematically assess decisions, regulations, journal articles, and other literature (Bowen, 2009).

Primary legal materials include the Marriage Law, amendments to the Marriage Law, Presidential Instruction on the Compilation of Islamic Law, Supreme Court Regulations on women in conflict with the law, and international instruments affirming the elimination of discrimination against women and child protection (Supreme Court of the Republic of Indonesia, 2017; Republic of Indonesia, 1974, 1991, 2019; United Nations, 1979, 1989). Secondary legal materials include fiqh munakahat, maqasid al-shari'ah theory, legal protection theory, legal system theory, and reputable journal articles published primarily between 2017 and 2025. Thus, the research does not

only rely on classical normative views, but also includes the latest empirical evidence regarding the issue of maintenance execution, gender inequality, and ex officio practices of judges.

The analysis was conducted in four stages. First, an inventory of norms regarding the consequences of divorce, especially iddah (waiting period), mut'ah (waivers), dowry (dowry), hadhanah (religious obligation), and child support. Second, a categorization of theories, namely maqasid al-shari'ah (lawful obligation), legal protection, and the legal system. Hadjon was used to assess whether the law guarantees legal subjects not to lose their rights due to the actions or negligence of others (Hadjon, 1987). Friedman was used to read the relationship between legal substance, legal structure, and legal culture (Friedman, 1975). Manan was used to examine the role of Religious Courts as a structure that connects fiqh norms with national legal certainty (Manan, 2017). Third, a synthesis of empirical studies from 2017 to 2025 that examined the rights of women and children after divorce in various Religious Courts. Fourth, a conceptual model of protection was formulated that places court decisions, execution, and legal literacy as a single chain.

This approach has limitations. The article does not conduct direct interviews with post-divorce women, judges, or court officials. Therefore, the empirical claims in the article are based on published studies, primarily decision studies, interviews, and previous socio-legal research. This limitation does not undermine the article's objective, as the research focuses on building a normative-critical argument based on current literature. In fact, by combining legal materials, theory, and empirical findings, the article can more comprehensively demonstrate the weaknesses in post-divorce women's protection: norms are available, courts are available, but rights often do not translate into concrete fulfillment.

RESULTS AND DISCUSSION

1. Marriage, divorce, and continuing legal responsibility

Protection for women after divorce must begin with an understanding that marriage under Islamic law is not an ordinary social event. Marriage creates a legal relationship that regulates the rights and obligations of husband and wife, the certainty of lineage, child custody, property, and moral responsibility. Therefore, divorce does not erase all legal consequences arising from the marriage contract. In the case of a raj'i divorce, the legal relationship even leaves room for reconciliation during the iddah period. In a ba'in divorce, or divorce by lawsuit, certain economic responsibilities still need to be fulfilled because they are related to the consequences of the existing marriage. This interpretation aligns with classical Islamic jurisprudence, which places maintenance, dowry, and lineage protection as valid consequences of the marriage contract (Abu Zahrah, 1957 ; al-Zuhayli, 1985).

The iddah period serves a broader function than simply a material obligation. It maintains clarity of lineage, provides space for status restructuring, and prevents women from entering a new phase of socio-economic vulnerability. In the contemporary context, the iddah period also needs to be understood as a period of psychological and economic transition. Women who previously depended on their husbands' income require minimal guarantees to avoid sudden poverty. A study by Sitompul and colleagues confirms that fulfilling women's rights during the iddah period should be interpreted as an Islamic legal obligation with protective purposes, not merely a ritual obligation (Sitompul et al., 2024). Thus, the iddah period is directly related to hifz al-nafs and hifz al-mal because it protects women's safety and economic security.

Mut'ah also needs to be interpreted substantively. In social practice, mut'ah is often understood as a symbolic gift whose value depends on the generosity of the ex-husband. This reading diminishes the legal meaning of mut'ah. Mut'ah is a form of respect for women who experience a change in status due to divorce, while also recognizing that marriage should not end by disregarding the dignity of the more vulnerable party. A comparative study of Indonesia, Malaysia, and Brunei Darussalam shows that post-divorce support policies are only effective if legal norms are accompanied by gender-responsive enforcement mechanisms, legal literacy, and institutional cooperation (Jannah et al., 2025). This means that mut'ah must move from a moral symbol to a quantifiable right, enshrined in a ruling, and achievable.

Hadhanah and child support demonstrate the clearest link between child protection and women's protection. Normatively, children's rights rest with the children, not the mothers. However, in the post-divorce reality, mothers often become the primary caregivers and bear the economic burden if the father fails to provide child support. Therefore, failure to provide child

support ultimately becomes a multiple burden for women. A study by Nasution, Triana, and Muchtar on child support demonstrates inconsistencies in court decisions regarding whether past child support can become a father's debt (Nasution et al., 2024). Firdaus and colleagues also noted a shift in the perspective of children's nafaqah madiyah from mere fulfillment to a claim of rights that must be affirmed in the decision (Firdaus et al., 2023). This finding is important because neglecting child support weakens the mother's position as the primary caregiver.

From a maqasid perspective, hadhanah is not only about who has the right to care for a child. Hadhanah concerns the child's welfare, emotional stability, educational continuity, and a safe environment. Research on children's rights in divorce cases in Padangsidempuan shows that judges can play a crucial role in protecting the child's best interests when legal considerations go beyond the formalities of the parties' demands (Ahmatnihar et al., 2022). Sururie and colleagues' study of the co-parenting model in urban Muslim families also shows that resolving custody disputes requires a collaborative approach to prevent children from becoming objects of parental power struggles (Sururie et al., 2024). Within this framework, the protection of women and children must go hand in hand: children's rights to support need to be ensured, while the burden of maternal caregiving must be recognized as a social reality requiring legal support.

2. Empirical findings: from written rights to failure to fulfill them

Recent empirical studies show a fairly consistent pattern: women's rights after divorce are recognized, but not always fulfilled. Research by Syukrawati and colleagues in Pekalongan shows that the ten divorce decisions examined did not automatically result in the fulfillment of women's and children's rights. The main obstacles arise from the community's lack of knowledge regarding the execution procedures, a lack of understanding of the obligation to provide maintenance under Islamic law, and the system's inability to ensure compliance from ex-husbands (Syukrawati et al., 2024). These findings provide an important lesson: court decisions are insufficient if the recipient of the rights does not understand how to claim their rights, and if the obligated party does not face effective institutional pressure.

Yuni and Haries' research reinforces this picture. Protecting women's rights after divorce is difficult because some cases are decided by default, some judges still view the issue of nusyuz narrowly, women's legal awareness is low, and gender sensitivity is not evenly distributed (Yuni & Haries, 2024). In default cases, women are often unable to file a complete claim or do not understand that the right to iddah and mut'ah maintenance can be requested. At this point, the principle of iura novit curia and the judge's ex officio authority should provide room for correction so that women's rights are not lost simply because of technical weaknesses in the lawsuit. Substantive justice requires judges not only to examine the petition but also to consider the disparity in the parties' legal capabilities.

A study by Suriani and colleagues in Unaaha revealed a more concrete problem. Of the 493 divorce and divorce by talaq cases decided during the study period, only 22 included provisions for fulfilling the rights of wives or children (Suriani et al., 2024). This figure indicates that protection norms have not been internalized in all adjudication practices. The problem is not simply the lack of a legal basis, but also the lack of operational standards that ensure every divorce case is examined through the lens of post-divorce legal consequences. If the ruling does not explicitly mention iddah (waiting), mut'ah (waiting for temporary dowry), or child support, women will face greater difficulties in its enforcement.

Rahmawati and colleagues' research uses the term dis-implementation to describe situations where Islamic family law has norms but fails to carry out its protective objectives (Rahmawati et al., 2025). Contributing factors include the ex-husband's failure to fulfill his obligations, complex and expensive enforcement procedures, and weak sanctions against the ex-wife's neglect of her rights. The concept of dis-implementation is important because it shifts criticism from the absence of rules to the weakness of their implementation design. In other words, the law is not judged solely by its wording, but by the institution's ability to enforce the fulfillment of rights.

Fahmi and colleagues identified progressive practices in several areas, such as institutional collaboration, salary deductions, and digital monitoring systems to enforce post-divorce maintenance (Fahmi et al., 2025). These findings demonstrate that women's protection is not merely a matter of interpreting Islamic law but also of managing its implementation. If the ex-husband works as an employee, income deductions can be an effective instrument. If he works informally, the court needs to be connected with monitoring mechanisms, post-decision mediation,

and community legal aid. Kesuma and colleagues proposed the idea of interconnecting decisions so that women's and children's rights do not remain as documents that are difficult to enforce (Kesuma et al., 2025). This model positions the court as a node connected to government agencies, workplaces, financial institutions, and women's protection units.

A study by Saleh, Hayatuddin, and Wardhana also showed that factors that prevent wives and children from fulfilling their rights are often related to unclear rulings, the ex-husband's economic capacity, and weak compliance after the decision (Saleh et al., 2023). Sholeh, Gumelar, and Fuadah emphasized the importance of supporting women and children after divorce because many parties have legal rights but are unaware of the procedures for claiming those rights (Sholeh et al., 2019). These findings emphasize the importance of legal literacy. Women are not simply provided with norms; they need information, assistance in drafting claims, assistance in court, and simple access to legal proceedings.

From an international perspective, women's experiences after divorce demonstrate the interconnectedness of economic and psychological burdens. DeAnda and colleagues found that maternal distress after separation impacts children's post-divorce adjustment (DeAnda et al., 2020). Uyar and Yildirim demonstrated that cognitive-behavioral psychoeducational interventions can aid women's emotional and social adjustment after divorce (Uyar & Yildirim, 2023). Economic research across various countries shows that women experience greater economic losses after divorce, particularly when the division of labor during the marriage placed women as primary caregivers or low-wage workers (Bonnet et al., 2021 ; Brüggmann & Kreyenfeld, 2023 ; Leopold, 2018 ; Smock et al., 2024). Therefore, legal protection needs to go beyond short-term nominal payments and consider the medium-term socioeconomic impacts.

3. Ex officio authority of judges and the role of Religious Courts

Religious courts hold a strategic position because divorce for Indonesian Muslims must be conducted in a court. This requirement serves not only an administrative function but also serves as a control mechanism to ensure that divorces are not unilateral and do not disregard the rights of women and children. Within the framework of procedural law, judges are obligated to explore legal values and a sense of justice, while ensuring that decisions are enforceable. Supreme Court Regulation Number 3 of 2017 reinforces this orientation by requiring judges to avoid gender stereotypes, consider inequality in relationships, and guarantee access to justice for women (Supreme Court of the Republic of Indonesia, 2017).

Ex officio authority becomes crucial when women fail to adequately formulate their demands. Yuni demonstrated that the use of ex officio in the Samarinda Religious Court can fulfill women's rights after divorce, but its implementation requires the judge's courage in interpreting the legal objectives, not just the formal form of the lawsuit (Yuni, 2021). Hayati and Ali found that the judge's considerations in divorce cases can encourage compliance with the ex-wife's rights if the judge explicitly links the ruling to the obligations of iddah (waiting) and mut'ah (waiting) maintenance (Hayati & Ali, 2022). Jamil and Nur also emphasized that ex officio in default decisions can maintain fairness for the parties when one party is absent or unable to defend their rights (Jamil & Nur, 2022).

A study by Salma and colleagues at the Manado Religious Court showed that ex officio judges play a role in protecting the rights of ex-wives and children, but their implementation still faces social, economic, and enforcement obstacles (Salma et al., 2025). Some judges hesitate to use ex officio due to concerns about exceeding the requirements, while others rely on evidence available at trial. When husbands claim incapacity, courts often face difficulties determining a realistic and fair amount of maintenance. This situation calls for more operational guidelines regarding standards for proving economic capacity, parameters for the appropriateness of mut'ah, and a phased payment scheme.

Qomaro's research on the agency of judges at the Bangkalan Religious Court shows that the fulfillment of wives' rights after divorce depends on how judges understand their protective function (Qomaro, 2021). Azizah, Hisyam, and Abou-Bakr, in a study at the Surabaya Religious Court, emphasized that the use of gender-justice-based ex officio can strengthen women's protection in divorce cases (Azizah et al., 2023). Fadil, Mazidah, and Mahmudi observed dynamics and transformations in the fulfillment of women's rights after divorce, especially when courts began to more actively interpret family law norms (Fadil et al., 2024). Pani and colleagues added that the non-cumulative nature of divorce and child custody lawsuits can create technical obstacles to the fulfillment of rights if judges do not manage cases carefully (Pani et al., 2023).

Ex officio authority should be understood as a protective instrument, not as a violation of the judge's passive authority. In divorce cases, the relationship between the parties is often unequal. Women who experience violence, economic pressure, or limited legal literacy may be unable to prepare a complete lawsuit. If the judge simply waits for a complete lawsuit, the law will favor the stronger party. Rohman, Sugeng, and Widyaningrum describe ex officio instrumentation as a way to fulfill the rights of children and wives resulting from divorce (Rohman et al., 2020). Setiawan also emphasizes the judge's ex officio right to determine the husband's obligations to his wife in a divorce (Setiawan, 2022). Based on this, ex officio becomes a means of realizing the goal of Islamic family law: closing the gap for neglecting rights arising from the marriage contract. However, ex officio is insufficient without an execution plan. Decisions establishing *mut'ah* (retirement) and *iddah* (waiting) maintenance will remain weak without a collection mechanism. Suadi proposed the paradigm of system interconnection as a new way to enforce women's and children's rights after divorce (Suadi, 2022). Tijow interprets the fulfillment of women's and children's rights after divorce through a progressive legal perspective, namely the legal courage to transcend formalism when formalism perpetuates injustice (Tijow, 2024). Kasim and colleagues, in the context of the Aceh Sharia Court, also demonstrated that protecting women and children requires a sociological approach because legal compliance is influenced by local norms, family economics, and power relations (Kasim et al., 2022).

4. Legal culture, gender, and women's layered vulnerabilities

Legal system theory helps explain why relatively comprehensive norms have not yet yielded effective protection. Friedman distinguishes between substance, structure, and legal culture (Friedman, 1975). The substance of Indonesian Islamic family law recognizes a number of post-divorce rights. Legal structures are available through the Religious Courts. However, legal culture is often a weakness because some communities still view post-divorce support as a moral matter, not a legal obligation. Ex-husbands may forgo support for economic reasons, families may pressure women not to sue, and women themselves may feel embarrassed or unworthy to pursue their rights. These conditions mean that the legal protections envisioned by Hadjon are not yet fully effective (Hadjon, 1987).

Patriarchal legal culture is also evident in how some understand *nusyuz*. If *nusyuz* is used rigidly to deny all women's rights without examining the context, the law can become a tool of punishment against women. Yet, domestic issues are often complex: violence, neglect, economic relationships, and broken communication can lead women to file for divorce. Wardatun and Smith demonstrate that the husband's *nusyuz* narrative in a divorce lawsuit opens up space for a more sensitive reading of feminist jurisprudence (*fiqh*) to address women's experiences (Wardatun & Smith, 2020). Kholidah and colleagues also demonstrate that violations of women's rights in divorce decisions need to be examined as a legal and sustainable development issue, as its impacts extend to poverty, health, education, and dignity (Kholidah et al., 2023).

The phenomenon of domestic violence adds another layer of vulnerability. Alfitri emphasized that protecting women from violence requires collaborative efforts between Islamic law, family law, and the state (Alfitri, 2020). Hasanudin and colleagues demonstrated that violence against women and divorce in Indonesia in 2020-2022 must be viewed from an Islamic perspective that protects the safety and dignity of victims (Hasanudin et al., 2023). If a woman divorces due to violence, post-divorce maintenance demands should not be viewed as economic gain, but as part of recovery. The CEDAW instrument requires the state to eliminate discrimination against women, while the Convention on the Rights of the Child demands the best possible protection for children (United Nations, 1979, 1989). Both instruments align with the *maqasid* (obligatory purpose) because they both place human dignity at the center of protection.

A social class perspective is also important. Rinaldo, Nisa, and Nurmila show that Indonesian women's divorce experiences are shaped by social class (Rinaldo et al., 2024). Middle-class women may have greater access to information, advocates, and family networks. Poor women often face limitations in transportation, legal costs, enforcement costs, and social pressure. In such contexts, even small amounts of maintenance can be significant, but the enforcement procedures often cost more than the amount claimed. These barriers explain why textual rights do not automatically translate into real justice. If the law does not simplify access, those who need protection most will find it most difficult to benefit from it.

Comparative literature suggests that the state needs to take a more active role. Bone critiques the problem of Muslim divorce in the UK, where religious and state processes are not

always aligned, leaving women facing status uncertainty (Bone, 2020). Nurlaelawati demonstrates that women's financial rights after divorce in Indonesia are closely linked to access to the courts, understanding of rights, and the ability to negotiate Islamic jurisprudence (fiqh) norms within the state's legal framework (Nurlaelawati, 2018). Jones situates Southeast Asian divorce within the dynamics of social change, so legal responses must not be static (Jones, 2023). From this perspective, Indonesian Islamic family law needs to ensure the integration of religious norms, state administration, and the implementation of decisions.

5. Substantive protection model based on maqasid and execution

Substantive protection can be formulated through five components. First, the decision must contain clear rulings regarding iddah (waiting period), mut'ah (waiver), unpaid dowry, child support, and hadhanah (living allowance) arrangements. Vague rulings will complicate enforcement. Second, judges need to use ex officio proportionally when women do not state their rights due to limited legal literacy. Third, courts need to provide standard information to the parties regarding post-divorce rights, how to calculate claims, and enforcement procedures. Fourth, the fulfillment of maintenance needs to be linked to realistic payment mechanisms, such as payments before the divorce declaration, scheduled installments, or income deductions. Fifth, institutional interconnectivity is needed to ensure that decisions do not languish in court archives (Fahmi et al., 2025 ; Kesuma et al., 2025 ; Suadi, 2022).

This model is in line with maqasid. Hifz al-nafs is realized when women are not left without basic guarantees after divorce. Hifz al-mal is realized when the economic rights of ex-wives and children can be collected effectively. Hifz al-nasl is realized when lineage, child support and care are clearly regulated. Hifz al-'ird or dignity is realized when mut'ah and protection from social stigma are placed as part of justice. The maqasid approach also demands that the law move from minimal protection towards human empowerment (Auda, 2008 ; Ibn Ashur, 2006). Thus, protecting women after divorce is not an agenda that is contrary to Islamic law, but rather a way to realize the deepest goals of Islamic law.

In the context of hadhanah, the protection model needs to prioritize the best interests of the child without ignoring the mother's burden as the main caregiver. Nazah and colleagues place hadhanah disputes within the framework of maqasid and gender justice, so that the focus does not stop on the formal rights of parents, but on the benefit of the child and fairness of the burden of caregiving (Nazah et al., 2025). Mustafid and colleagues also emphasized that post-divorce child custody rights in contemporary Islamic family law need to consider the needs of the child, the parents' abilities, and social changes (Mustafid et al., 2025). On this basis, the court needs to ensure that child support goes hand in hand with the hadhanah decision. Giving custody to the mother without ensuring child support is tantamount to transferring the father's economic burden to the mother.

Implementing the model also requires socio-legal assistance. Sholeh and colleagues emphasize that post-divorce women's and children's rights assistance can help vulnerable parties understand their rights, evidence, and procedures (Sholeh et al., 2019). This assistance can be provided by legal aid posts, religious counselors, women's organizations, universities, and government service agencies. In Muslim communities, religious counseling has strategic value because it can explain that iddah (waiting period), mut'ah (waiting for temporary dowry), and child support are not only state obligations but also religious responsibilities. Religious language can reinforce moral compliance, while legal language ensures that rights can be enforced if obligations are neglected.

Technology can also support enforcement. Case information systems can be developed to monitor post-divorce maintenance payments, record payment schedules, and provide reminders to obligated parties. In cases involving formal employment, courts can collaborate with employers to deduct income based on the verdict. In informal employment, courts can encourage post-decision mediation and record payment agreements. This model requires a clear regulatory basis to avoid relying on local initiatives. Fahmi and colleagues' study of practices in Surabaya, Gresik, Bengkulu, and Bontang shows that institutional innovation can improve the certainty of maintenance payments when courts do not operate alone (Fahmi et al., 2025).

Ultimately, post-divorce protection for women needs to be framed as a family justice agenda. Divorce does indeed end the marital relationship, but it does not end responsibility for the consequences of the marriage. Islamic law allows for divorce to prevent the harm of the household from being perpetuated, but the same law also requires that the consequences of divorce be

resolved in a just and just manner. If a woman leaves a marriage poor, stigmatized, and bearing the burden of children alone, the legal system has not fulfilled its maqasid function. Conversely, when decisions are clear, rights are enforceable, and women receive support, Islamic law emerges as a protection system relevant to the needs of contemporary families.

6. Policy implications and theoretical contributions

The above analysis has clear policy implications. First, divorce procedural law needs to promote a standardized examination of divorce consequences as an integral part of every case. Currently, the right to iddah (waiting period), mut'ah (waiting period), and child support often depend on the completeness of the petition. This dependence is problematic because not all women understand legal language, are able to calculate their needs, or have the courage to demand their rights after experiencing domestic conflict. The standardized examination could take the form of a list of mandatory questions in court: are there children, who is the primary caregiver, how much the children need, is there a dowry owed, what is the economic situation of the husband and wife, and whether there is a history of violence or neglect. These questions are not intended to complicate the divorce process but to ensure that it does not create new injustices. In this way, the courts carry out a protective function consistent with Supreme Court Regulation No. 3 of 2017 and legal system theory, which requires the legal structure to be active, rather than simply awaiting the initiative of vulnerable parties (Friedman, 1975 ; Supreme Court of the Republic of Indonesia, 2017).

Second, guidelines for calculating maintenance need to be clarified. In practice, the terms "adequate" and "proper" often provide too much discretion. Discretion is necessary due to the varying economic circumstances of the parties, but discretion without parameters can lead to disparities in decisions. Courts can use indicators such as actual income, potential income, local living costs, children's basic needs, history of economic contributions in the marriage, and the burden of care after divorce. This principle does not necessarily transform Islamic law into a rigid numerical system. Rather, these parameters help judges implement the principle of ma'ruf (good) in a measured manner. Studies on ex officio rulings and the fulfillment of women's rights show that clear rulings and strong legal rationale can increase the likelihood of compliance and facilitate enforcement (Hayati & Ali, 2022 ; Jamil & Nur, 2022 ; Salma et al., 2025 ; Yuni, 2021).

Third, post-divorce protection requires a legal aid design that is more community-focused. Many women only learn about their rights after a final and binding decision, when their bargaining power is already weakened. Legal aid posts in courts need to be strengthened with brief modules on women's and children's rights, examples of alimony petitions, lists of evidentiary documents, and the execution process. Religious counselors, women's service institutions, and universities can play an educational role. This approach is crucial because post-divorce rights do not exist solely in the courtroom. They depend on community knowledge, family support, and women's courage in facing stigma. When legal counseling explains the obligation to provide alimony as both a religious mandate and a state legal mandate, the chances of social compliance can increase (Manan, 2017 ; Sholeh et al., 2019 ; Syukrawati et al., 2024).

Fourth, courts need to distinguish between objective inability and unwillingness to pay. Many ex-husbands claim inability, but courts do not always have the tools to examine informal income, assets, lifestyle, or family support. In such situations, judges can establish a phased payment scheme, while maintaining the principle that the obligation to provide support remains intact. If the ex-husband has a steady income, salary deductions may be an option. If the income is unstable, the court can record the payment schedule and provide for oversight. The interconnectedness model of decisions suggests that the fulfillment of post-divorce rights should not be left entirely to the ex-husband's discretion (Fahmi et al., 2025 ; Kesuma et al., 2025 ; Suadi, 2022).

Fifth, reforms to protection need to address the language of decisions. A good decision not only cites norms but also explains the relationship between the facts of the case, women's vulnerability, children's interests, and the basis of maqasid (obligatory purposes). Gender-sensitive decision language can avoid stereotypes, such as the assumption that women who file for divorce automatically do not deserve economic protection. Divorce lawsuits often arise due to neglect, violence, prolonged conflict, or a husband's failure to fulfill his obligations. If the court ignores this context, the law actually punishes women seeking a way out of harm. Studies on divorce lawsuits, husband's nusyuz (indifference), and gender justice show that women's experiences need to be

included in legal reasoning so that family jurisprudence remains responsive to social realities (Azizah et al., 2023 ; Fadil et al., 2024 ; Wardatun & Smith, 2020).

This article's theoretical contribution lies in the integration of *maqasid*, legal protection, and legal system theory. *Maqasid* provides the normative basis for the protection of women and children as a goal of sharia. Legal protection theory asserts that rights must be guaranteed so that they are not lost due to the actions or negligence of others. Legal system theory explains why good norms can fail if the legal structure and culture do not support them. The integration of these three produces a more operational measure: post-divorce protection for women can only be considered effective if rights are recognized in the norms, read sensitively by judges, clearly stated in decisions, and can be claimed through simple mechanisms. This measure also corrects the tendency of family law research to stop at discussing normative arguments without examining the effectiveness of institutions (al-Shatibi, 1997 ; Auda, 2008 ; Hadjon, 1987 ; Ibn Ashur, 2006).

The original aspect of this reading lies in the positioning of post-divorce maintenance as an ecosystem of protection, not an independent collection of rights. *Iddah* livelihood without *mut'ah* only provides temporary protection. *Mut'ah* without child support does not solve the burden of parenting. *Hadhanah* without child support shifts economic responsibility to the mother. Decisions that contain rights without a payment mechanism create a formal victory that is difficult to perceive. Therefore, the concept of protection needs to be designed as a series: identification of rights from the start of the case, proof of economic capacity, nominal determination, payment order, post-judgment supervision, and socio-legal sanctions against neglect of obligations. This series shows that family justice is not simply measured by the legality of divorce, but by the law's ability to protect the most vulnerable parties after the divorce occurs.

Furthermore, journal publication standards require articles not only to increase the number of references but also to clarify the function of each reference within the argument. Classical literature provides a normative basis, legislation provides a legal basis, while recent empirical studies provide evidence of actual obstacles. These three types of references need to be placed proportionally. If an article relies too heavily on classical *fiqh*, the analysis risks being normative and failing to address implementation issues. If an article relies solely on empirical studies, its Islamic legal basis becomes thin. This balance allows articles to address academic needs while remaining relevant to the practice of Religious Courts.

At the editorial level, the consequence is that every major claim must be followed by a relevant citation, and every source in the bibliography must actually appear in the body of the article. This consistency is important because readers can trace the basis of an argument without encountering unused pasted references.

This article also emphasizes the importance of distinguishing between protective and paternalistic approaches. A protective approach guarantees women's rights because they are legal subjects with dignity and capacity, not because they are inherently weak. A paternalistic approach risks positioning women as objects of pity, making their economic rights after divorce easily negotiable or ignored. Conversely, a protective approach positions women as rights holders who can demand fulfillment, obtain information, and use the courts as a space for redress. This distinction is crucial so that Islamic family law does not stop at the rhetoric of protection, but truly strengthens women's position in facing the consequences of divorce.

This reading provides direction for further research. Future studies need to empirically examine how varying court decisions determine the amount of *iddah*, *mut'ah*, and child support; how women understand their rights before and after the trial; and how the income deduction mechanism works in regions where it has been implemented. Field research is also needed to hear the experiences of women whose decisions have failed to be enforced, as this is where the gap between written law and daily life is most evident. With this data, family law reform can be formulated more precisely, not based solely on normative assumptions, but on the concrete needs of women and children.

Thus, the agenda of strengthening Islamic family law need not be in conflict with the Islamic jurisprudence tradition. *Fiqh* provides the ethical and normative foundation, while state law provides the institutional instruments. The contemporary challenge lies in connecting the two. If *fiqh* is read without the instruments of execution, women's rights are vulnerable to becoming moral exhortations. If state law is implemented without the *maqasid* (objectives of the law), decisions can become administrative formalities. Both need to work together so that divorce, even if permitted as a solution, does not become a gateway to impoverishment and neglect of women. This is where

Islamic law demonstrates its relevance: not by maintaining a rigid text, but by bringing its protective objectives to life in ever-changing social conditions.

7. Confirmation of findings, comparison of studies, novelty, and implications

The main findings of this article confirm that post-divorce protection for women is not sufficiently understood as a normative recognition of *iddah* (waiting), *mut'ah* (waiting for marriage), *hadhanah* (waiting for marriage), and child support. Its academic value lies in the shift in emphasis from written rights to enforceable rights. By simultaneously examining Islamic jurisprudence norms, Indonesian family law, Supreme Court Regulation No. 3 of 2017, and recent empirical studies, this article demonstrates that the main problem lies in the implementation chain: the identification of rights in court, the courage to use *ex officio* rulings, the clarity of rulings, and the availability of payment and oversight mechanisms. The novelty of this research lies in the formulation of the concept of protection as an ecosystem of *maqasid* (obligations) and execution, rather than simply a list of obligations of the ex-husband.

Compared to similar studies, this article's findings align with those of Syukrawati et al. (2024) who found a low understanding of execution procedures as an obstacle to fulfilling rights in Pekalongan; Yuni and Haries (2024) who emphasized the difficulty of protection due to default cases, *nusyuz* issues, and judges' gender sensitivity; Suriani et al. (2024) who showed a low proportion of decisions addressing the rights of wives and children; Rahmawati et al. (2025) who referred to the failure to fulfill rights as a dis-implementation of Islamic family law; Fahmi et al. (2025) who emphasized the importance of institutional collaboration and income deductions; and Kesuma et al. (2025) who offered interconnected decisions to strengthen execution. Internationally, this article's conclusions also overlap with Bonnet et al. (2021), Leopold (2018), and Brüggmann and Kreyenfeld (2023) who showed that women tend to experience greater economic losses after divorce. This comparison reveals a general pattern: divorce carries disproportionate socio-economic consequences and requires more operational legal design.

These similar findings likely arise from several factors. First, unequal economic relations within marriage make women more likely to bear the consequences of divorce, especially when they are the primary caregivers. Second, the judicial process still demands technical skills that women do not always possess, so that normatively available rights are not always adequately asserted or proven. Third, a patriarchal legal culture often treats post-divorce maintenance as a family moral matter, not a legally enforceable obligation. Differences between studies are primarily influenced by regional context, case type, data collection methods, and institutional design. Studies in certain courts find innovations such as salary deductions and interconnections, while others show failures to fulfill rights because the case population is dominated by informal income earners, default cases, or the lack of legal assistance.

This article's contribution lies in three aspects. First, conceptually, it connects the *maqasid al-shari'ah* (Islamic principles) with legal protection theory and legal system theory to assess whether women's post-divorce rights actually work. Second, analytically, the article positions *iddah* (waiting), *mut'ah* (waiting for temporary maintenance), child support, and *hadhanah* (waiting for a fixed term) as a single unit of family protection, not separate issues. Third, practically, the article offers a more definitive measure of success: post-divorce rights are only meaningful if they are identified in the court process, stipulated in a clear ruling, accompanied by a payment order, and have a simple path to execution. Thus, the article's novelty lies not only in the topic of women post-divorce, but also in its integrative model that combines norms, rulings, execution, and support.

The practical implications are that Religious Courts need to use a divorce checklist in every case, clarify the parameters for calculating alimony, and expand the use of *ex officio* provisions proportionally when women are unable to formulate their claims. The academic implications are that the study of Islamic family law needs to move from normative analysis to an evaluation of the effectiveness of norms within judicial institutions and post-decision life. The policy implications are that the Supreme Court, local governments, employers, and women's service institutions need to establish accessible mechanisms for payment and monitoring of alimony. Future research should employ a cross-regional empirical approach to examine variations in alimony amounts, ex-husband compliance, the effectiveness of income deductions, and the experiences of women whose decisions fail to be enforced.

CONCLUSION

Protection of women after divorce from an Islamic legal perspective is based on the principle that divorce does not erase the legal, moral, and social responsibilities arising from the marriage contract. Marriage, as *a mitsaqan ghalizan* (part of a marriage contract), has consequences for a woman's livelihood, dowry, lineage, childcare, and dignity. Therefore, iddah (waiting period), mut'ah (waiting period), full dowry, child support, and hadhanah (traditional payment) must be understood as binding rights, not voluntary gifts from the ex-husband. Within the framework of maqasid al-shari'ah (the protection of the rights of the husband), these rights safeguard life, property, descendants, dignity, and family continuity. The main problem lies not in the absence of norms, but rather in the gap between norms and their implementation. Indonesian Islamic family law, the Marriage Law, the Compilation of Islamic Law, Supreme Court Regulation No. 3 of 2017, and human rights instruments provide a basis for protection. However, recent empirical studies show that women's rights after divorce are still hampered by low legal literacy, a patriarchal legal culture, default cases, a narrow understanding of nusyuz (laws), unclear rulings, and complex and expensive enforcement mechanisms. Religious courts have a strategic role in transforming textual rights into substantive justice. Judges need to exercise their ex officio authority proportionally, formulate measured decisions, and prioritize the interests of women and children within the family's well-being. However, ex officio measures alone are not sufficient. Protection requires institutional interconnection, income deductions, digital monitoring, post-decision mediation, legal aid, and community-based counseling. With these measures, Islamic law will not cease to be a norm for divorce but will instead function as a concrete system of protection for women and children after divorce.

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