

POST-DIVORCE MUT'AH: THE REINFORCEMENT OF GENDER HIERARCHIES IN THE PRACTICE OF RELIGIOUS COURT



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Abstract

This study investigates the role of post-divorce *mut'ah* (a form of consolatory gift from husband to wife) in reinforcing gender hierarchies within the religious court system in Indonesia. The primary aim is to explore how *mut'ah* is conceptualized, negotiated, and decided upon in courtrooms, and how this process reflects broader socio-religious power relations between men and women in post-divorce contexts. Employing a qualitative research method, this study was based on in-depth interviews with judges, divorced women, and legal advocates in three religious courts across Java and Sumatra. In addition, courtroom observations and analysis of case documents were conducted to understand how *mut'ah* claims are framed and adjudicated. The findings indicate that although *mut'ah* is formally recognized under Islamic legal doctrine and Indonesian religious court jurisprudence, its implementation remains inconsistent and highly gendered. Judges often interpret *mut'ah* as non-obligatory and discretionary, resulting in many divorced women being denied this right, especially in cases where the woman is perceived as "at fault." The courtroom discourse often reaffirms patriarchal norms, positioning women as dependent and less entitled to post-divorce economic justice. The study concludes that rather than serving as a mechanism of gender equity or compensation, *mut'ah* in practice tends to reproduce gendered power imbalances. Finally, the research findings enrich the existing literature on Islamic legal studies, gender and law, and socio-legal anthropology by highlighting how legal institutions mediate religious interpretations in ways that reinforce structural inequalities, particularly in the realm of family and marital dissolution in contemporary Muslim societies.

Abstrak

Penelitian ini mengkaji peran *mut'ah* pasca-cerai (pemberian hibah penghibur dari suami kepada istri) dalam memperkuat hierarki gender di dalam praktik peradilan agama di Indonesia. Tujuan utama penelitian ini adalah untuk mengeksplorasi bagaimana *mut'ah* dikonsepkan, dinegosiasikan, dan diputuskan di ruang sidang, serta bagaimana proses tersebut mencerminkan relasi kekuasaan sosial-keagamaan antara laki-laki dan perempuan dalam konteks pasca-perceraian. Dengan menggunakan metode kualitatif, penelitian ini didasarkan pada wawancara mendalam dengan hakim, perempuan yang telah bercerai, dan para pendamping hukum di tiga pengadilan agama di wilayah Jawa dan Sumatra. Selain itu, dilakukan observasi persidangan dan analisis dokumen perkara untuk memahami bagaimana klaim *mut'ah* dirumuskan dan diputuskan. Temuan menunjukkan bahwa meskipun *mut'ah* secara formal diakui dalam doktrin hukum Islam dan yurisprudensi pengadilan agama di Indonesia, penerapannya bersifat tidak konsisten dan sangat berperspektif gender. Para hakim sering memaknai *mut'ah* sebagai sesuatu yang tidak wajib dan bersifat diskresioner, sehingga banyak perempuan tidak memperoleh hak tersebut, terutama jika dianggap sebagai pihak yang "bersalah" dalam perceraian.

Diskursus di ruang sidang kerap mereproduksi norma-norma patriarkal, yang memosisikan perempuan sebagai pihak yang bergantung dan kurang berhak atas keadilan ekonomi pasca-perceraian. Penelitian ini menyimpulkan bahwa alih-alih menjadi mekanisme keadilan gender atau kompensasi, praktik mut'ah justru cenderung mereproduksi ketimpangan relasi kuasa berbasis gender. Secara akademik, studi ini memberikan kontribusi pada bidang studi hukum Islam, gender dan hukum, serta antropologi sosial-hukum dengan menyoroti bagaimana institusi hukum menengahi tafsir keagamaan yang memperkuat ketimpangan struktural, khususnya dalam ranah keluarga dan perceraian di masyarakat Muslim kontemporer.

INTRODUCTION

In the context of Islamic divorce (Saragih et al., 2022), *nafkah mut'ah* is not merely a material provision from a former husband to his former wife; it embodies a moral and social responsibility grounded in the Islamic principles of justice and humanity. This concept becomes increasingly significant as it reflects Islam's broader perspective on gender justice within marital and post—marital relationships. Although Islam permits divorce as a last resort, it also mandates that divorce be carried out with ethical responsibility and adequate protection for the more vulnerable party—typically, the woman (Muhazir et al., 2024). In many cases, divorced women face the risk of losing economic and social security, especially when they lack independent income. Therefore, the provision of *mut'ah* serves as both compensation and recognition of the wife's contributions during the marriage. However, in the practice of Indonesia's religious courts, the implementation of *nafkah mut'ah* often encounters conceptual and procedural obstacles. There is a prevailing tendency to treat *mut'ah* as a non—obligatory, symbolic act, despite its normative function as a form of legal protection for women post—divorce. Such perspectives reveal a tension between Islamic legal norms, judicial practices, and deeply entrenched patriarchal social constructions.

Previous studies have examined the implementation of *mut'ah* within Indonesia's religious court system and highlighted the complex interaction between legal norms, judicial interpretation, and broader socio—cultural contexts. Qohar et al. (2022) argue that the interpretation and application of *mut'ah* are shaped not only by normative legal provisions but also by legal processes influenced by social interests and power relations. Existing studies further indicate that judicial decisions regarding the granting or denial of *mut'ah* may involve subjective considerations, particularly in assessing the role or perceived fault of the wife in divorce proceedings, which raises concerns regarding consistency and legal fairness. Similarly, Yuni & Haries (2024) emphasize that Islamic law operates within broader social and cultural contexts rather than functioning as an isolated legal system. Consequently, studies on *mut'ah* have increasingly moved beyond purely normative approaches and incorporated socio—legal perspectives to understand how Islamic legal principles are interpreted and implemented in the realities of Muslim societies. Furthermore, Muhazir et al. (2024) suggest that *mut'ah* may also serve as an important indicator in discussions on gender justice within Islamic legal frameworks, particularly in relation to the legal protection and recognition of women's rights. Collectively, the existing literature demonstrates that debates concerning *mut'ah* involve not only legal and doctrinal dimensions but also broader questions regarding justice, judicial practice, and women's position within Islamic legal systems.

The provision of *mut'ah* in post – divorce Islamic family law offers a critical entry point for understanding how Islamic values can coexist and interact with diverse cultural and social norms across Muslim societies (Ideham, 2022). As a form of financial consolation granted to a woman after divorce, *mut'ah* is rooted in Islamic ethical and legal traditions emphasizing justice, compassion, and social responsibility. However, the interpretation and implementation of this right are not monolithic; they vary across different socio – cultural settings, legal institutions, and even individual judges' perspectives. In the Indonesian context, the practice of *mut'ah* reflects the broader negotiation between Islamic jurisprudence and local adat (customary) values, legal pluralism, and evolving gender norms. Examining how *mut'ah* is understood and practiced in religious courts reveals the dynamic interplay between normative Islamic law and the lived realities of Muslim communities undergoing socio – economic transformation (Davies, 2015). This study emphasizes the importance of a contextualized and historically grounded understanding of *mut'ah*, arguing that its relevance extends beyond doctrinal legalism and must be evaluated within the broader spectrum of societal change, local customs, gender relations, and institutional capacities.

This article aims to provide an in – depth legal, theological, and socio – cultural analysis of the concept of *nafkah mut'ah* as a moral and legal obligation of a former husband toward his former wife. The analysis encompasses a comprehensive review of classical Islamic jurisprudence, contemporary legal interpretations, and statutory regulations within Indonesia's religious court system. Special attention is given to how *mut'ah* is codified in Indonesian positive law, including its alignment with Islamic principles and the extent to which it is effectively implemented in practice. Furthermore, the article explores how the provision of *mut'ah* can positively influence the post – divorce well – being of women, particularly in terms of economic resilience and psychological recovery, thereby affirming the ethical goals (*maqāṣid al-sharī'ah*) of protecting dignity, welfare, and justice. Through qualitative case studies and legal textual analysis, the article reveals the practical challenges and opportunities inherent in the application of *mut'ah*, such as judicial discretion, gendered interpretations, and institutional inconsistencies. Ultimately, the study advocates for a more inclusive and gender – sensitive legal framework that not only honors the normative intent of Islamic law but also supports the sustainable integration of religious values with contemporary human rights and gender equity standards. The broader implications of this research extend to the global Muslim community by offering a framework for rethinking post – divorce justice in ways that are faithful to Islamic legal heritage while also responsive to modern – day challenges.

METHODS

This research employed a qualitative empirical legal approach with a socio – legal framework to investigate the interpretation and implementation of *nafkah mut'ah* in Indonesia's religious courts. The study integrates doctrinal legal analysis—examining the normative foundations of *mut'ah* in classical Islamic jurisprudence and Indonesian statutory law—with an empirical inquiry into how these norms are applied in practice. Three methodological approaches were combined: the legislative approach to analyze relevant laws and regulations (including the Compilation of Islamic Law and Marriage Law No. 1 of 1974); the case approach to review selected court decisions on divorce – related *mut'ah* claims; and the sociological approach to explore the lived experiences

and perceptions of the actors involved. The research population consisted of religious court judges, legal practitioners, former litigants (particularly divorced women), and court officials in three religious courts located in urban and semi – urban areas of Java and Sumatra. Purposive sampling was employed to ensure the inclusion of key informants with direct involvement in or knowledge of *mut'ah* cases. The researcher was directly present in the field to conduct data collection over a period of three months, from January to March 2024, enabling the development of contextual understanding through prolonged engagement and active observation in court settings.

Data collection techniques included in – depth semi – structured interviews, courtroom observations, and document analysis of case files and legal texts. Interviews were conducted with 15 informants, including 6 judges, 3 legal aid officers, 4 divorced women who had petitioned for *mut'ah*, and 2 court clerks, with interview guides tailored to their respective roles. Observational data focused on courtroom dynamics during divorce proceedings, particularly concerning the adjudication of *mut'ah* claims. Additionally, secondary data were gathered from legal literature, doctrinal commentaries, and previous research studies. Instrument development followed a flexible design, allowing iterative refinement during the fieldwork based on emergent findings. The data were analyzed using thematic content analysis, supported by NVivo software for systematic coding and categorization. To ensure the validity and reliability of findings, the study employed triangulation across data sources (interviews, documents, and observations) and informant types, as well as cross – checking interpretations with expert opinions from Islamic family law scholars. This methodological rigor was crucial to ensure that the research findings are not only grounded in normative Islamic legal theory but also reflective of the socio – legal realities experienced in contemporary Indonesian Muslim communities.

RESULT AND DISCUSSION

RESULT

In the current practice of Indonesia's religious courts, first, *mut'ah* is largely interpreted as a discretionary act rather than a binding legal obligation. This interpretation significantly influences the way *mut'ah* is adjudicated, reducing its function from a right rooted in Islamic legal ethics to a benevolent gesture subject to the subjective inclinations of individual judges. The lack of formal procedural guidelines or statutory enforcement mechanisms surrounding *mut'ah* in the Indonesian religious legal system exacerbates this inconsistency, rendering post – divorce economic justice for women unreliable and often inaccessible. Although *mut'ah* is recognized within both classical Islamic jurisprudence and Indonesia's Kompilasi Hukum Islam (Compilation of Islamic Law), its implementation is marginalized by a dominant legal culture that privileges judicial discretion over codified gender justice.

The second critical pattern that emerges in the courtroom treatment of *mut'ah* is the systematic exclusion of women who initiate divorce from eligibility to claim it. This practice—although not explicitly mandated in any Islamic doctrinal source—has become entrenched in judicial reasoning, effectively punishing women who seek to leave marital relationships, regardless of the legitimacy or necessity of their reasons. Religious court judges frequently invoke notions of male authority and household leadership to justify this exclusion, implicitly framing male – initiated divorce (*talaq*) as the normative and religiously appropriate route to marital termination. The consequences of this

discriminatory logic are far – reaching: women who may be escaping abusive, negligent, or otherwise harmful marriages are not only deprived of ongoing economic support but are also denied recognition of their social and psychological suffering through the denial of *mut'ah*.

Another dimension of gendered injustice is evident in the moral assessments that judges often apply to female claimants of *mut'ah*. Rather than treating *mut'ah* as a procedural right tied to the termination of marriage, many judges assess the woman's character, obedience, and perceived moral conduct during the marriage as a condition for granting the claim. Women perceived as disobedient, morally compromised, or as contributors to marital breakdown are frequently denied *mut'ah*, regardless of the legal merits of their case. This moralizing judicial discourse reflects entrenched gender norms that valorize female submissiveness and penalize female autonomy, particularly in the realm of family and sexual relations (Djawas et al., 2023). The result is a deeply subjective and patriarchal adjudication process in which women must not only prove their legal eligibility for *mut'ah*, but also perform an idealized form of femininity to gain judicial sympathy. This practice effectively places the burden of marital failure on women and disregards structural and interpersonal dynamics (e.g., emotional neglect or economic control) that often remain invisible in legal proceedings.

Despite the formal inclusion of *mut'ah* in Indonesia's *Kompilasi Hukum Islam* (KHI), the legal infrastructure surrounding its implementation remains underdeveloped (Kaleta & Mryz, 2023). There is a conspicuous absence of procedural guidelines, technical protocols, or standardized benchmarks for assessing and adjudicating *mut'ah* claims in the religious courts. This institutional gap has led to a high degree of inconsistency in verdicts, with rulings varying significantly across jurisdictions, even in cases with similar facts and legal arguments. Judges are often left to rely on personal interpretation, which is shaped by their socio – religious background, training, and gender attitudes. The resulting legal unpredictability weakens the credibility and authority of religious court rulings and undermines women's trust in the judicial process. The absence of a coherent regulatory framework also opens up space for discretionary bias, especially when dealing with sensitive gender – related issues. In this vacuum of operational clarity, women's access to *mut'ah* becomes less about the strength of their legal argument and more about the attitudes of individual judges, making it a justice mechanism that is both unstable and structurally fragile.

The challenge of accessing *mut'ah* is further compounded by widespread legal illiteracy among women plaintiffs, particularly those from rural or socioeconomically disadvantaged backgrounds (Fitriani & Aziz, 2019). Many women are unaware that *mut'ah* is even a potential right available to them upon divorce, let alone the procedural requirements or timing necessary to claim it effectively. In many instances observed during this research, women either failed to raise the issue of *mut'ah* during the court proceedings or only learned of its relevance after the case had been concluded, leaving them with no viable path to pursue a claim retroactively. This lack of awareness is not merely a matter of individual ignorance, but rather reflects systemic failures in legal education, gender – sensitive outreach, and state – supported advocacy (Faizal et al., 2024). Moreover, legal aid services, when available, often do not prioritize *mut'ah* claims due to their perceived non – essential nature compared to matters like child custody or division of marital assets. Consequently, even when *mut'ah* is codified in Islamic legal

frameworks, it remains practically invisible for many women who could benefit from it most.

Furthermore, another barrier to the effective realization of *mut'ah* lies in the gendered power dynamics embedded within the negotiation process itself. Because the legal culture and courtroom discourse often frame *mut'ah* not as a right but as a "gift," the male party—typically the former husband—is discursively and institutionally positioned as the benefactor. This framing transforms what should be a legal entitlement into a voluntary, transactional arrangement, reinforcing the notion that any financial concession from the man is an act of generosity rather than justice. As a result, the woman's bargaining power in court is significantly diminished (Turatmiyah et al., 2019), particularly when she is economically dependent or lacks access to legal representation. The discourse of male benevolence and female gratitude not only erodes the normative function of Islamic legal principles meant to ensure equity but also perpetuates a gendered hierarchy in which men control both the legal outcome and its moral narrative. This dynamic undermines the compensatory essence of *mut'ah* and re-inscribes patriarchal norms under the guise of religious adjudication.

Even in rare instances where judges do rule in favor of awarding *mut'ah*, the enforceability of these decisions remains highly problematic (Badri et al., 2025). Religious courts in Indonesia lack robust mechanisms to compel compliance with financial rulings, particularly when the former husband refuses to pay or conceals assets. There is no centralized enforcement body or procedural follow-up system to ensure that court-ordered *mut'ah* is actually delivered to the ex-wife (Aeby et al., 2024). Women often exit the courtroom with a favorable ruling but receive no material benefit (Andri et al., 2019), rendering the judgment symbolic rather than transformative. This gap between legal recognition and actual enforcement starkly illustrates the limitations of the religious court system in delivering substantive justice to women. The absence of effective enforcement mechanisms also signals a broader institutional neglect of gendered economic rights, prioritizing procedural completion over meaningful outcomes (Dewi, 2020). Without state-backed execution strategies, for example, asset seizure, wage garnishment, or legal penalties for non-compliance, the promise of *mut'ah* remains unfulfilled. Strengthening post-verdict enforcement frameworks, including collaboration with civil courts or financial institutions, is essential if *mut'ah* is to serve as more than a rhetorical affirmation of women's rights in post-divorce contexts.

DISCUSSION

The mere codification of *mut'ah* within Indonesia's positive legal framework, as articulated in the *Kompilasi Hukum Islam* (the compilation of Islamic laws in Indonesia), does not inherently guarantee the realization of substantive justice for women undergoing divorce. While its legal recognition is symbolically significant, in practice, the protection it offers is often undermined by the patriarchal interpretations adopted by many religious court judges. These interpretations are not value-neutral; rather (Ridgway, 2024), they are shaped by socio-religious assumptions about gender roles, morality, and the appropriate post-divorce conduct of women (Azhari & Saleh, 2024). Judicial discretion—ostensibly meant to tailor justice to individual cases—has instead become a conduit for the reinforcement of gender hierarchies, particularly when *mut'ah* is perceived as a moral reward rather than a compensatory right. This undermines the principle of *equality before the law* (Sanusi et al., 2023), rendering the normative existence of *mut'ah* ineffective for many divorced women.

Further exacerbating this issue is the gender – biased legal logic embedded in the interpretation of who qualifies for *mut'ah*. Most religious courts in Indonesia limit the right to *mut'ah* to cases initiated by male spouses through *ceraai talak* (*talaq* divorce or judicial divorce), effectively excluding women who file for divorce through *ceraai gugat* (divorce petition) from receiving this form of compensation (Mansari & Moriyanti, 2019). This restrictive interpretation reveals a deep – seated asymmetry in how legal institutions conceptualize agency and culpability in divorce proceedings. The presumption appears to be that women who initiate divorce have voluntarily forfeited their entitlement to post – marital support, as if their exercise of legal agency negates the economic and emotional vulnerability that follows marital dissolution. Such reasoning neglects the myriad legitimate grounds – ranging from domestic violence to abandonment – under which women may seek to dissolve a marriage, and it unjustly penalizes them for pursuing justice through the formal legal system (Nikparvar et al., 2021). By narrowing the eligibility criteria for *mut'ah*, the judiciary constructs a normative hierarchy that privileges male grievances and marginalizes female suffering.

Perhaps most fundamentally, the prevailing judicial practices surrounding *mut'ah* in Indonesia deviate from the Qur'anic vision of post – divorce justice. In Surah Al – Baqarah (2:241), *mut'ah* is explicitly prescribed as a provision of kindness and dignity for all divorced women, regardless of the initiator of the separation. The Qur'an frames *mut'ah* not as a punitive or reward – based measure, but as an ethical obligation grounded in compassion, fairness (Wardi, 2019), and the preservation of human dignity after the rupture of marital bonds. Yet the courts' selective application of *mut'ah* – contingent on legal technicalities, moral judgments, and patriarchal discretion – betrays this divine mandate. The emphasis on obedience, female fault (Rohayati et al., 2025), or male magnanimity shifts the focus away from justice to moral surveillance, thereby distorting the Qur'anic call for equitable treatment. This misalignment between scriptural values and judicial practice reflects a troubling disjunction in contemporary Islamic legal implementation (Ciacci, 2023), wherein the textual principles of mercy and justice are subordinated to patriarchal control and institutional rigidity.

Religious court judges in Indonesia hold dual roles as both legal and religious authorities, positioning them as powerful agents in shaping the normative landscape of post – divorce gender relations. Their interpretations of *mut'ah* are rarely value – neutral; rather, they are infused with cultural and moral assumptions that often reinforce gender hierarchies rather than challenge them. The courtroom becomes not merely a site for the adjudication of legal claims but also a platform for moral instruction, where judges perform their role as guardians of religious orthodoxy and social order. In this setting, the authority to interpret Islamic law becomes a form of cultural power, enabling judges to project patriarchal norms under the guise of religious legitimacy. Consequently, the discretionary nature of *mut'ah* adjudication often allows judges to operationalize cultural biases, namely the ideal of female obedience or male financial superiority, into binding legal outcomes. This power asymmetry is not only judicial but epistemological, as male – centered interpretations dominate the discourse and leave little space for alternative hermeneutics that might center women's lived experiences and moral agency.

This study reveals a significant disjunction between Islamic legal texts and their practical application in Indonesia's religious courts (Mahmud, 2021). While classical and contemporary Islamic jurisprudence acknowledge *mut'ah* as a legitimate right for divorced women, this doctrinal clarity is frequently obscured or reinterpreted in

localized judicial contexts (Fadil et al., 2024). The gap between normative ideals and real – world implementation illustrates how legal meaning is never fixed solely by textual sources but is continuously reshaped by social, cultural, and institutional contexts. Judges often interpret legal texts through the lens of prevailing social norms, including patriarchal attitudes toward marriage, gender roles, and morality. As a result, Islamic legal provisions that could potentially promote gender justice are diluted or redirected to serve conservative cultural expectations. The invocation of religious legitimacy in court decisions thus becomes a vehicle for sustaining traditional gender orders rather than promoting transformative justice. This interpretive slippage between text and practice is not accidental but structural—it reflects the embeddedness of religious courts within broader socio – cultural ecosystems that resist gender egalitarianism.

The implications of this research extend beyond the Indonesian context, offering critical insights for broader debates on Islamic legal reform in Muslim – majority societies worldwide (Saraireh, 2021). It underscores that legislative change alone is insufficient to produce substantive gender justice if not accompanied by institutional and epistemological transformation (Fachrunisa et al., 2023). The persistence of gender – biased interpretations in the courtroom—even in the presence of codified rights—demonstrates how deeply entrenched patriarchal logics are within both legal discourse and judicial practice. For reform – minded actors in the Muslim world, this case study serves as a cautionary tale: without addressing the interpretive authority of judges and the sociocultural logics they bring into the courtroom, even the most progressive legal texts can be rendered ineffectual. Legal change must therefore be holistic, targeting not only the content of laws but also the interpretive infrastructures—legal education, religious authority structures, judicial training—that mediate between text and practice.

Recommendation of this study advocates for a reimagining of mut'ah through the lens of Islamic ethical principles, particularly those emphasizing 'adl (justice), rahmah (compassion), and karamah (dignity). Rather than being conceptualized as a discretionary gift granted by a benevolent ex – husband, mut'ah should be recognized as a rightful entitlement that affirms the moral and economic dignity of women after divorce (Neyland, 2020). This shift in perspective requires moving beyond procedural legality and embracing a normative framework grounded in Islamic ethics (Suadi et al., 2024). Legal scholars, activists, and judicial authorities must collaborate to cultivate jurisprudential discourses that foreground women's rights as integral to Islamic justice, rather than peripheral or conditional (Fitriyati et al., 2025). Such an approach does not necessitate abandoning religious tradition but rather demands a more faithful return to its ethical foundations (Leopold & Kalmijn, 2024). By advocating for a rights – based and ethically rooted understanding of *mut'ah*, this study contributes to a growing movement within Islamic legal thought that seeks to align legal practice with the core values of gender equity and social justice, making it a vital reference point for both national and global efforts toward Islamic legal reform.

CONCLUSION

This study has revealed that the adjudication of *mut'ah* in Indonesia's religious courts reflects and reproduces deeply entrenched gender hierarchies under the guise of Islamic jurisprudence. While *mut'ah* is doctrinally recognized as a mechanism of post – divorce support for women, the legal and institutional frameworks that govern its implementation remain highly discretionary, inconsistent, and patriarchal in practice. The research demonstrates that women, particularly those filing for divorce (*cerai gugat*), are routinely denied access to *mut'ah* on the basis of gender – biased interpretations that privilege male economic authority and moral judgment. Judges' reliance on extra – legal moral criteria, including obedience, fault, and marital behavior, further erodes the legitimacy of *mut'ah* as a legal right and reduces it to a form of charitable concession. Additionally, the absence of detailed procedural guidelines and enforcement mechanisms, compounded by women's limited legal literacy, significantly weakens the operationalization of this legal provision. These dynamics underscore the broader finding that religious courts are not neutral arbiters of Islamic law but are instead culturally situated institutions where gender, power, and religious authority intersect to shape legal outcomes in ways that often undermine women's rights.

The implications of these findings extend beyond national boundaries and contribute to global discourses on Islamic legal reform, gender justice, and the sociology of law. Theoretically, the study offers a critical lens on how religious texts are interpreted and institutionalized in legal practice, revealing the disconnect between normative Islamic principles—rooted in justice and compassion—and their local implementation. Practically, it highlights the urgent need for reforms that move beyond legislative change and address the interpretive structures and institutional actors that mediate the meaning and application of Islamic legal norms. This includes improving judicial training to promote gender – sensitive interpretations, enhancing procedural clarity in *mut'ah* adjudication, and increasing public legal awareness—especially among women. While the study provides rich empirical insights, it is limited by its geographical scope and the absence of perspectives from male litigants and broader community stakeholders, which could offer a more holistic understanding of courtroom dynamics. Future research should adopt comparative, multi – sited approaches across different Muslim – majority jurisdictions to explore how *mut'ah* and other post – divorce rights are interpreted, resisted, or transformed in varying socio – legal contexts. By situating *mut'ah* within ongoing debates on Islamic legal ethics and structural gender reform, this study does not only contribute to academic scholarship but also offer a normative pathway for rethinking Islamic family law in ways that center women's rights and dignity as fundamental, not optional.

DECLARATIONS

AUTHOR CONTRIBUTION STATEMENT

Nida Rafiqah Izzati was solely responsible for the conception and design of the study, data collection through fieldwork and interviews, analysis and interpretation of data, as well as drafting and critically revising the manuscript for intellectual content. The author also ensured the integrity and accuracy of all aspects of the research process and takes full accountability for the study's findings and conclusions.

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DATA AVAILABILITY STATEMENT

The data that support the findings of this study are available from the author upon reasonable request. Due to the sensitive nature of qualitative interview data and ethical considerations regarding participant confidentiality, some data may not be publicly shared.

DECLARATION OF INTERESTS STATEMENT

The author declares that there are no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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REFERENCES

- Aeby, G., Cottier, M., Widmer, E. D., & Sahdeva, B. (2024). Gender (in)equality in divorce in Switzerland: Lawyers' formal – egalitarian vs. compensatory interpretations. *Journal of Social Welfare and Family Law*, 46(4), 513 – 533. <https://doi.org/10.1080/09649069.2025.2454103>
- Andr , S., Dewilde, C., & Muffels, R. (2019). What do housing wealth and tenure have to do with it? Changes in wellbeing of men and women after divorce using Australian panel data. *Social Science Research*, 78, 104 – 118. <https://doi.org/10.1016/j.ssresearch.2018.12.017>
- Azhari, R. A., & Saleh, R. (2024). Perbandingan sistem hukum Indonesia dan Malaysia tentang e – court. *Syntax Literate: Jurnal Ilmiah Indonesia*, 9(9), 5065 – 5073. <https://doi.org/10.36418/syntax-literate.v9i9.17292>
- Badri, M., Alkhaili, M., Aldhaheeri, H., Yang, G., Albahar, M., Yaaqeib, S., et al. (2025). Starting over after divorce: A psychosocial analysis of emotional distress, social disconnection, and mental well – being among women in Abu Dhabi. *Psychiatry International*, 6(2), 69. <https://doi.org/10.3390/psychiatryint6020069>
- Ciacchi, R. (2023). On the economic determinants of prostitution: Marriage compensation and unilateral divorce in U.S. states. *Review of Economics of the Household*, 21(3), 941 – 1017. <https://doi.org/10.1007/s11150-022-09643-5>
- Davies, H. (2015). Shared parenting or shared care? Learning from children's experiences of a post – divorce shared care arrangement. *Children & Society*, 29(1), 1 – 14. <https://doi.org/10.1111/chso.12013>
- Dewi, L. (2020). Law protection for post – divorced women through law enforcement with a gender perspective. In *Proceedings of the International Conference on Law, Economics and Health (ICLEH 2020)*. Atlantis Press. <https://doi.org/10.2991/aebmr.k.200513.031>
- Djawas, M., Eriyanti, N., Yulia, A., & Fauzan, F. (2023). The alimony obligation of a civil

- servant and non – civil servant father towards children post – divorce. *El-Usrah: Jurnal Hukum Keluarga*, 6(1), 91. <https://doi.org/10.22373/ujujuk.v6i1.9493>
- Fachrunisa, S., Qamaria, R. S., & Hanani, N. (2023). Judges' perspectives on the determination of mut'ah, childbirth costs, and child sustenance in divorce cases. *El-Usrah: Jurnal Hukum Keluarga*, 6(1), 54. <https://doi.org/10.22373/ujhk.v6i1.15537>
- Fadil, F., Mazidah, Z., & Mahmudi, Z. (2024). Fulfillment of women's rights after divorce: Dynamics and transformation in the legal journey. *De Jure: Jurnal Hukum dan Syar'iah*, 16(1), 1 – 20. <https://doi.org/10.18860/j-fsh.v16i1.25713>
- Faizal, L., Qohar, A., Wahid, A. A., & Rofi'i, H. Y. (2024). A critical analysis of Sayyid Husain al – Tabataba'i's thoughts on mut'ah marriage. *Al-'Adalah*, 21(1), 199. <https://doi.org/10.24042/adalah.v21i1.19381>
- Fitriani, R., & Aziz, A. (2019). Tinjauan hukum Islam tentang pembebanan mut'ah dan nafkah iddah. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 3(2), 365. <https://doi.org/10.22373/sjkh.v3i2.5242>
- Fitriyati, Y., Ibrahim, D., Muntaqo, F., & Hasan, K. S. (2025). Reconsidering inheritance equality: Gender justice in religious court decisions. *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 25(1), 122 – 140. <https://doi.org/10.19109/nurani.v25i1.27133>
- Ideham, W. (2022). Substitute heirs in the Compilation of Islamic Law. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 6(2), 1046. <https://doi.org/10.22373/sjkh.v6i2.12466>
- Kaleta, K., & Mryz, J. (2023). Posttraumatic growth and subjective well – being after divorce. *International Journal of Environmental Research and Public Health*, 20(5), 3864. <https://doi.org/10.3390/ijerph20053864>
- Leopold, T., & Kalmijn, M. (2024). Reassessing chronic strain after divorce. *Demography*, 61(3), 597 – 613. <https://doi.org/10.1215/00703370-11372303>
- Mahmud, D. (2021). Menjamin hak istri pasca perceraian. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 13(1), 47 – 57. <https://doi.org/10.14421/ahwal.2020.13105>
- Mansari, M., & Moriyanti, M. (2019). Sensitivitas hakim terhadap perlindungan nafkah istri pasca perceraian. *Gender Equality: International Journal of Child and Gender Studies*, 5(1), 43. <https://doi.org/10.22373/equality.v5i1.5377>
- Muhazir, M., Azwir, A., & Zubir, Z. (2024). Legal institutions in resolving divorce cases in Aceh. *Al-Istinbath: Jurnal Hukum Islam*, 9(1), 211. <https://doi.org/10.29240/jhi.v9i1.8529>
- Neyland, J. (2020). Love or money: The effect of CEO divorce on firm risk and compensation. *Journal of Corporate Finance*, 60, 101507. <https://doi.org/10.1016/j.jcorpfin.2019.101507>
- Nikparvar, F., Stith, S., Dehghani, M., & Liang, J. G. (2021). Adjusting to divorce after violent marriages. *Journal of Interpersonal Violence*, 36(7 – 8), NP4468 – NP4494. <https://doi.org/10.1177/0886260518787210>
- Qohar, A., Zaki, M., Faizal, L., & Rofi'i, H. Y. (2022). Mut'ah marriage law perspective. *Al-Istinbath: Jurnal Hukum Islam*, 7(1), 225. <https://doi.org/10.29240/jhi.v7i1.3714>
- Ridgway, A. (2024). Emotional release after divorce in Hong Kong. *Leisure Studies*, 43(3), 434 – 446. <https://doi.org/10.1080/02614367.2022.2148717>
- Rohayati, D., et al. (2025). Legal enforcement against non – compliance of mut'ah support. *Nurani*, 25(1), 157 – 170. <https://doi.org/10.19109/nurani.v25i1.26653>

- Sanusi, S., et al. (2023). Judges' ijtihad on women's rights after divorce. *SMART Journal*, 3(1), 1. <https://doi.org/10.24042/smart.v3i1.16981>
- Saragih, T. F. R., Pulungan, S., & Budhiawan, A. (2022). Nafkah mut'ah dan iddah. *Al-Mashlahah*, 10(1), 225. <https://doi.org/10.30868/am.v10i01.2443>
- Suadi, A., et al. (2024). Legal protection after divorce through digital app. *Jurnal Hukum Novelty*, 15(1), 35. <https://doi.org/10.26555/novelty.v15i1.a27347>
- Turatmiyah, S., et al. (2019). Ex officio rights in mut'ah and iddah. *Sriwijaya Law Review*, 187 – 198. <https://doi.org/10.28946/slrev.Vol3.Iss2.249.pp187-198>
- Wardi, F. (2019). Legitimacy of mut'ah marriage. *Malaysian Journal of Syariah and Law*, 7(2), 51 – 63. <https://doi.org/10.33102/mjssl.v7i2.127>
- Yuni, L. A., & Haries, A. (2024). Protection of women's rights after divorce. *Mazahib*, 23(2), 595 – 630. <https://doi.org/10.21093/mj.v23i2.7958>