

Housing Rights for Wives After Divorce: A Comparative Analysis of Islamic Law and the Marriage Law

Putri Ayu Agustina^{1*}, Jumni Nelli²

¹ Universitas Islam Negeri Sultan Syarif Kasim Riau, Indonesia. E-mail: ayuagustinaputri29@gmail.com

² Universitas Islam Negeri Sultan Syarif Kasim Riau, Indonesia. E-mail: jumni.nelli@uin-suska.ac.id

|| Submitted: January 19, 2025 || Accepted: March 22, 2025 || Published: Juni 26, 2025 ||

Abstract: The phenomenon of increasing divorce rates in Indonesia raises serious issues regarding the protection of women's rights, especially the right to housing after divorce, which is still often neglected in legal practice. Although a number of previous studies have discussed aspects of alimony, child custody, and division of joint property, there is still a gap in studies that specifically examine housing rights from a comparative perspective between Islamic law and Indonesian positive law. This study aims to analyse in depth the concept and implementation of housing rights for wives after divorce based on the Compilation of Islamic Law (KHI), the principles of maqāṣid al-syarī'ah, and Law No. 1 of 1974 on Marriage, as well as to assess the extent to which the two legal systems can be harmonised. The method used is a qualitative approach with a comparative-normative method, through content analysis and legal literature review of legislation, Supreme Court decisions, and scientific works indexed by Sinta and Scopus. The results of the study show that Islamic law places the wife's right to housing as part of the protection of life and honour within the framework of maqāṣid al-syarī'ah, while positive law interprets this right through the division of joint property as determined by the court. However, the lack of synchronisation in interpretation and implementation in the field has led to legal uncertainty, particularly in cases where the house is in the husband's name. Theoretically, this research broadens the understanding of the integration of Islamic values into the national family law system, while practically providing recommendations for policymakers and judicial institutions to formulate regulations that are more gender-responsive and based on substantive justice. These findings emphasise the urgency of harmonising Islamic law and national law in order to strengthen the protection of women's rights after divorce and ensure social justice in the Indonesian family law system.

Keywords: Housing Rights, Divorce, Islamic Law, Marriage Law, Maqāṣid al-Syarī'ah

1. Introduction

Divorce is a social phenomenon that cannot be ignored in family life in Indonesia, especially given its significant increase in recent decades. Various factors such as changes in people's mindsets, economic pressures, domestic conflicts, and shifts in social values have contributed to the rise in divorce rates¹. Recent statistics show that the number of couples choosing to end their marriages continues to increase every year, both religiously and legally. Research by Esti Restu and Yuliani shows that economic factors and cultural shifts have been the main drivers of the increase in divorce rates in Indonesia over the past 10 years². This surge in divorce rates has had a profound impact, not only on marital relationships, but also on psychological and economic aspects, especially for wives. In many cases, divorced women often face difficulties in maintaining stable housing, especially when they do not have an independent source of income or do not yet have rights to shared property. Legal uncertainty regarding housing rights often

¹ Ramlah Ramlah, "Faktor-Faktor Yang Mempengaruhi Tingginya Tingkat Perceraian Di Indonesia (Tinjauan Terhadap Hukum Acara Peradilan Agama)," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 14, no. 02 (December 1, 2018): 350–68, <https://doi.org/10.30631/al-risalah.v14i02.455>.

² Esti Restu Yuliani, "FAKTOR-FAKTOR YANG MEMPENGARUHI PERCERAIAN: STUDI DI PENGADILAN AGAMA KABUPATEN KEBUMEN," *Al-Usroh: Jurnal Hukum Keluarga Islam* 2, no. 02 (January 6, 2025): 1–11, <https://doi.org/10.55799/alusroh.v2i02.537>.

leaves wives in a socially and economically vulnerable position after divorce³. The issue of housing rights for wives after divorce is a crucial matter because housing is not only a basic need, but also directly related to their sense of security and livelihood after separation. Uncertainty regarding rights to the house that was originally shared with the husband often leads to conflict and legal difficulties that exacerbate the wife's situation⁴. This issue has become an important focus in legal studies and the protection of women's rights after divorce.

The phenomenon of divorce in Indonesia also shows differences in legal treatment, particularly between Islamic law, which is the reference for the majority of the Muslim community, and the Marriage Law, which is national in nature and applies universally to all citizens⁵. In Islamic law, divorce is regulated in the Compilation of Islamic Law (KHI) and based on sharia principles that emphasise maqashid sharia to protect the common good and the rights of each party, including the right to housing during the idah period and after divorce. In contrast, Marriage Law No. 1 of 1974 provides a general legal framework, with divorce and joint property settlement mechanisms resolved in district courts⁶. Although both have the same objective of maintaining justice and order within the family, the implementation of Islamic law and the Marriage Law often differs in terms of procedure, evidence, and the fulfilment of rights, especially the right to housing for wives. In practice, the enforcement of a wife's right to housing after divorce faces various complex dynamics and challenges. First, there is a lack of understanding or differing interpretations among legal officials and the public regarding the provisions on wives' rights, both in Islamic law and the Marriage Law, which leads to inconsistent court decisions. Second, the judicial process is often subject to lengthy and bureaucratic procedures, making it difficult for wives to obtain their rights immediately, especially if the property in question is under the husband's name. Third, the enforcement of court decisions on housing rights often faces real obstacles such as refusal by the former husband, lack of supervision of enforcement, and suboptimal protection regulations.⁷ This situation has sparked controversy and legal uncertainty that has impacted the welfare of divorced wives. They sometimes face the risk of losing their homes and experiencing significant economic hardship. This issue has become a social critique and a reminder for the national legal system to continue harmonising and improving itself in order to guarantee women's rights after divorce. Dialogue between Islamic law and national law needs to be encouraged in order to create fair legal treatment and effective protection of rights, especially basic rights such as the right to housing. Previous studies have tended to focus on the division of joint property (gono-gini), the provision of iddah and mut'ah alimony, and child custody rights, while the issue of housing rights for wives after divorce has rarely received proportional attention. Existing studies are generally purely legal and normative in nature, focusing on the interpretation of legal texts and regulations, without delving deeply into the empirical and sociological dimensions that accompany their

³ Asmuni Asmuni, "Compensation to Ex-Wives for Domestic Violence in Indonesia," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 2 (November 5, 2024): 271–89, <https://doi.org/10.32505/qadha.v11i2.9537>.

⁴ Layyin Mahfiana et al., "Influence of Religion and Culture on Women's Rights in Joint Property Settlements in Java, Indonesia," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 1 (June 30, 2025): 117–38, <https://doi.org/10.18326/ijtihad.v25i1.117-138>.

⁵ Sanusi Sanusi et al., "Judges' Ijtihad on Women's Rights after Divorce and Its Contribution to Family Law Reform in Indonesia," *SMART: Journal of Sharia, Traditon, and Modernity* 3, no. 1 (July 30, 2023): 1, <https://doi.org/10.24042/smart.v3i1.16981>.

⁶ Pradana Sandi Yoga, Yulies Tiena Masriani, Diana Pujiningsih, Kalijunjung Hasibuan, Indah Dwiprigitaningtias et al., "Maintenance Rights of Wife and Children After Divorce in Islamic Family Law," *International Journal of Health, Economics, and Social Sciences* 7, no. 2 (2024): 1, <https://doi.org/https://doi.org/10.56338/ijhess.v7i2.7309>.

⁷ "Dis-Implementation of the Islamic Family Law in Fulfilling the Rights of Ex-Wives After Divorce in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (2025): 1, <https://doi.org/https://doi.org/10.22373/sjhk.v9i1.27172>.

implementation in the field⁸. As a result, practical issues faced by women after divorce, such as loss of housing, limited access to family assets, and legal uncertainty in the execution of court decisions, are often overlooked in academic analysis. Furthermore, the limitations of comparative research between Islamic law (as reflected in the Compilation of Islamic Law and the principle of *maqāṣid al-syarī'ah*) and national positive law (Law No. 1 of 1974 on Marriage) have led to a lack of comprehensive understanding of how the two legal systems can complement each other in protecting women's rights. In fact, the concept of *maqāṣid al-syarī'ah*, which emphasises the protection of life, offspring, and property, is directly relevant to the right to housing as part of women's basic needs and stability after divorce. The absence of studies linking normative aspects and social realities highlights the urgency of interdisciplinary research that not only examines legal texts but also highlights the social, cultural, and economic contexts that influence the implementation of housing rights for ex-wives in Indonesia. Thus, this research is expected to make a new contribution in filling the conceptual and practical gaps that have not been widely addressed by legal academics and Islamic studies scholars.

This study aims to analyse housing rights for wives after divorce through a comparative approach between Islamic law and the Marriage Law in Indonesia. The main objective is to identify similarities and differences in the principles, procedures, and implementation of laws related to housing rights, as well as to reveal the extent to which the values of justice and benefit in Islamic law can be the basis for strengthening national regulations. The novelty of this research lies in its approach, which not only compares the normative aspects of the two legal systems but also assesses their implications for social protection and gender justice. Thus, this study is expected to contribute conceptually to the development of Islamic family law and practically to policymakers in strengthening the protection of women's rights after divorce.

2. Method

This research methodology uses a qualitative approach with a comparative-normative method, which aims to compare the legal principles and provisions of two different legal systems, Islamic law and Indonesian positive law, in the context of fulfilling the housing rights of wives after divorce. This approach was chosen because it is considered capable of explaining how the two legal systems build normative, procedural, and philosophical foundations in providing protection for women after divorce. The research design is comparative-normative, with an analysis of legal norms sourced from religious texts and national legislation. The purpose of this design is to identify similarities, differences, and potential harmonisation between the Compilation of Islamic Law (KHI), the concept of *maqāṣid al-syarī'ah*, and Law No. 1 of 1974 concerning Marriage and its derivative regulations. The object of the study covers normative regulations regarding the wife's right to housing after divorce, with the population consisting of regulations and legal literature discussing the protection of women's rights in the context of divorce.

The data was obtained through library research, using primary legal sources such as the KHI, Marriage Law, and Supreme Court decisions, as well as secondary legal sources in the form of Sinta and Scopus indexed scientific journals, Islamic family law books, and previous research results. The analysis was conducted through content analysis and comparative legal analysis to interpret legal texts, trace the values of *maqāṣid al-syarī'ah*, and identify the similarities and differences in the application of Islamic law and positive law, both in substance and in legal implementation. As an example of application, this study examines Article 156 letter (d) of the KHI, which affirms the wife's right to a place of residence during the *idat* period, and compares it with Article 37 of the Marriage Law, which regulates the division of joint property without explicitly mentioning the right to housing. In addition, the study also touches on the sociological dimension of law to assess the real impact of regulatory inconsistencies on women's lives after divorce through empirical analysis and social literature. This combination of approaches enables an

⁸ Guy Feldman and Tamar Shwartz-Ziv, "Negotiating Housing Insecurity: Parenting in Poverty and the Struggle for Home," *Children and Youth Services Review* 163 (August 2024): 107780, <https://doi.org/10.1016/j.chilyouth.2024.107780>.

analysis that is not only textual, but also substantive and contextual, thereby making an important contribution to strengthening the dialogue between Islamic law and national law and encouraging a more gender-equitable reconstruction of family law based on maqāṣid al-syarī'ah.

3. Result and Discussion

3.1. A Legal Analysis of a Wife's Right to Residence After Divorce

a. The Concept of the Right to Housing within the Framework of Maqāṣid al-Sharī'ah

Within the framework of maqāṣid al-syarī'ah, the right to housing after divorce occupies a highly strategic position because it is directly linked to two fundamental objectives of Islamic law: ḥifẓ al-naḥs (protection of life) and ḥifẓ al-'ird (protection of honor). These two principles affirm that Islam not only emphasizes the formal aspects of family law but also prioritizes the well-being and survival of women following the dissolution of the marital bond⁹. Housing after divorce is not merely a matter of economics or material possessions, but also a means of protection against social vulnerability, especially for women facing post-divorce situations with economic, social, and psychological limitations¹⁰. According to 2023 data from the Directorate General of Religious Courts (Ditjen Badilag), more than 72% of divorce cases in Indonesia are initiated by the wife, and of that number, approximately 58% of women lose access to the family home following the divorce ruling. This fact indicates that housing is the greatest source of vulnerability for women following a divorce. Many of them are forced to return to their parents' home, rent a small apartment at their own expense, or, in some cases, live in temporary accommodations with their children without adequate security¹¹.

This situation demonstrates that the right to housing is not merely a matter of family law, but also a matter of social justice and humanitarian protection. From the perspective of maqāṣid al-syarī'ah, housing (maskan) is part of the darūriyyāt (basic necessities) that must be met to ensure human survival¹². Al-Syātibī, in **Al-Muwāfaqāt**, asserts that all provisions of Islamic law are fundamentally aimed at safeguarding five primary principles: ḥifẓ al-dīn (religion), ḥifẓ al-naḥs (life), ḥifẓ al-'aql (intellect), ḥifẓ al-nasl (progeny), and ḥifẓ al-māl (property). Housing serves as a framework that enables the protection of all these maqāṣid. With housing, a person can safeguard their life, raise their children in a safe environment, and protect their honor from prying eyes and social harassment. Conversely, the loss of housing often plunges women into situations of physical insecurity, social abuse, and even economic exploitation. Furthermore, ḥifẓ al-'ird, or the protection of honor, holds a particularly relevant dimension in the context of women post-divorce. In many patriarchal societies, including Indonesia, women who lack a permanent residence after divorce are frequently viewed negatively and face social stigma. They are often accused of being a "burden on the family" or deemed incapable of self-reliance, thereby eroding their dignity and self-respect in the public eye¹³.

⁹ Maulanida and Ahmad Musta'in Syafi'ie, "MAQĀSID HUKUM KELUARGA ISLAM DALAM KOMPILASI HUKUM ISLAM (KHI)," *USRAH: Jurnal Hukum Keluarga Islam* 5, no. 1 (April 23, 2024): 158–73, <https://doi.org/10.46773/usrah.v5i1.774>.

¹⁰ Chris Huggins, Lina Awadalla, and Neema Kingamkono, "Women's Rights to Land in Tanzania: Does Village Land Use Planning Strengthen Women's Land Rights?," *Journal of Rural Studies* 119 (October 2025): 103805, <https://doi.org/10.1016/j.jrurstud.2025.103805>.

¹¹ IRMANJAYA IRMANJAYA and DJAYADIH DJAYADIH, "PERLINDUNGAN HUKUM TERHADAP HAK-HAK KORBAN KEKERASAN DALAM RUMAH TANGGA (KDRT) PADA PROSES PERCERAIAN DI PENGADILAN AGAMA TANGERANG," *Jurnal Pilar Keadilan* 1, no. 1 (July 7, 2021): 36–50, <https://doi.org/10.59635/jpk.v1i1.150>.

¹² Vandana Gopikumar et al., "From Institutions to Homes: Evaluation of a Housing with Supportive Services Intervention for People with Psychosocial Disabilities with Histories of Homelessness," *SSM - Mental Health* 7 (June 2025): 100424, <https://doi.org/10.1016/j.ssmmh.2025.100424>.

¹³ Maulanida and Syafi'ie, "MAQĀSID HUKUM KELUARGA ISLAM DALAM KOMPILASI HUKUM ISLAM (KHI)."

The granting of the right to residence after divorce is part of Sharia's efforts to protect women's dignity and prevent social discord. The *maqāṣid al-syarī'ah* approach thus calls for a reinterpretation of legal norms that are overly formalistic. Whereas previously the right to housing was understood to be limited to the 'iddah period, the *maqāṣid* approach requires that this right be viewed more broadly and continuously, as long as the woman remains in a vulnerable condition and lacks sufficient economic means. This principle aligns with the legal maxim "*mā lā yatimmu al-wājib illā bihi fa huwa wājib*"—that is, anything serving as a means to fulfill the obligation of protecting life and dignity must also be safeguarded. This *maqāṣid* approach is also consistent with the recommendations of CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), which emphasizes that the state must guarantee women's right to adequate housing after divorce, including in the context of the division of joint property¹⁴. In practice in Indonesia, there are no explicit provisions guaranteeing this right in either the Marriage Law or the Compilation of Islamic Law. The application of *maqāṣid* can serve as a bridging principle to fill this legal gap and guide judges in interpreting the law in accordance with the values of substantive justice. Furthermore, in the modern social context, the need for housing is also closely related to the dimension of *ḥifẓ al-nasl* (protection of offspring). Many women who become heads of households after divorce must bear the dual responsibility of raising children while meeting economic needs. The inability to have a permanent place of residence can have a negative impact on children's growth and development, including causing psychological trauma and disruptions to educational stability¹⁵.

b. A Contextual Interpretation of Article 156(d) of the Indonesian Civil Code

Article 156(d) of the Compilation of Islamic Law (KHI) states that "a former wife is entitled to a place of residence during the 'iddah period, unless she has been granted a *ba'in* divorce or is deemed *nusyūz* and is not pregnant." This provision textually indicates that a former wife's right to housing is limited by the duration of the 'iddah and the status of the legal relationship following the divorce. In other words, once the 'iddah period ends, or the wife is deemed *nusyūz*, the right to housing is considered void¹⁶. However, such interpretations raise a number of issues when confronted with contemporary social realities, particularly regarding the protection of women's rights following divorce. Historically, the KHI was drafted in the context of harmonizing Islamic law with the national legal system during the 1990s. The approach employed tends to follow classical *fiqh* based on the Shafi'i school, with the aim of maintaining uniformity in legal practice within the religious court system. However, with increasingly complex social developments—including rising divorce rates, urbanization, and gender-based economic disparities—a literalist approach to this provision has begun to create substantive injustices, particularly for women who lose their homes and sources of livelihood following divorce. According to 2023 data from the Directorate General of Religious Courts (Ditjen Badilag), out of a total of 516,000 divorce cases, approximately 72% were divorce by petition, and 58% of these involved wives who lost access to the family home following the ruling. This phenomenon indicates that the rigid application of Article 156(d) has the potential to create social vulnerability for women, who should be protected by the principles of justice and public interest in Islamic law¹⁷. From the perspective of *maqāṣid al-syarī'ah*, a former wife's right to reside in the marital home should not be understood as limited to the 'iddah period. This is because the purpose of the Sharia (*maqṣad al-syarī*) in marriage is not only to formally regulate the relationship between husband

¹⁴ Anna Calasanti, "Asset, Voice, Leverage? Women's Property Ownership and Household Decision-Making in Colombia, Guatemala, and Honduras," *Land Use Policy* 159 (December 2025): 107794, <https://doi.org/10.1016/j.landusepol.2025.107794>.

¹⁵ Barbara Andersen, "Health Workers' Housing and Moral Geographies of Citizenship in Papua New Guinea," *Cities* 158 (March 2025): 105729, <https://doi.org/10.1016/j.cities.2025.105729>.

¹⁶ Maulanida and Syafi'ie, "MAQĀṢID HUKUM KELUARGA ISLAM DALAM KOMPILASI HUKUM ISLAM (KHI)."

¹⁷ Risanna Aulia Adha Lubis, "PERLINDUNGAN HUKUM TERHADAP HAK ISTRI DAN ANAK PASCA CERAI TALAK," *Al-Rasikh: Jurnal Hukum Islam* 13, no. 2 (November 4, 2024): 240–55, <https://doi.org/10.38073/rasikh.v13i2.1824>.

and wife, but also to ensure the preservation of the five fundamental principles (al-kulliyāt al-khamsah), namely the protection of religion (ḥifẓ al-dīn), life (ḥifẓ al-nafs), reason (ḥifẓ al-‘aql), lineage (ḥifẓ al-nasl), and property (ḥifẓ al-māl). In the context of divorce, the right to housing is clearly directly related to ḥifẓ al-nafs and ḥifẓ al-‘ird (protection of honor), as the loss of a home can lead to physical, psychological, and social vulnerability for women, especially those caring for young children. Thus, a contextual interpretation of Article 156(d) is necessary so that the legal norms contained therein do not remain merely formal but serve to realize substantive justice. Contextual interpretation in this case means reading the legal text while considering socio-economic conditions, changes in family structure, and the universal values that are the objectives of sharia.

This principle aligns with the maqāṣidī approach developed by contemporary scholars such as Jasser Auda, who emphasize that Islamic law must be “systemic and multidimensional,” not merely textual and deductive. Within the framework of contextual interpretation, the phrase “during the ‘iddah period” in Article 156(d) can be understood as a minimum threshold of legal protection, not a maximum limit. This means that the former wife is entitled to occupy the shared home at least for the duration of the ‘iddah, and under certain conditions, this period may be extended until she secures a new, suitable residence. This aligns with the principle of al-ḍarūrah tubīḥ al-maḥẓūrāt—that necessity permits what is otherwise prohibited—which is one of the key principles in Islamic law. Moreover, in the Indonesian context, the state has a constitutional responsibility to protect citizens from poverty and unfit living conditions, as stipulated in Article 28H paragraph (1) of the 1945 Constitution. This interpretive approach has also found support in several progressive rulings within the religious court system. One such ruling is the Decision of the Sleman Religious Court No. 136/Pdt.G/2022/PA.Smn, which grants the wife temporary housing rights for six months following the end of the ‘iddah period, on the grounds that she is still caring for two young children and has not yet secured new housing. The panel of judges opined that housing protection constitutes part of the mut’ah and moral support that must be fulfilled by the former husband, as an expression of humanitarian and moral responsibility under Islamic law. Rulings such as this mark the emergence of a new judicial ijtihad oriented toward the public interest and social justice. Furthermore, the reinterpretation of Article 156(d) must also take into account the aspect of gender equality as mandated by Law No. 7 of 1984 on the Ratification of the CEDAW Convention. In this context, restricting housing rights solely to women who are still in their ‘iddah period has the potential to be discriminatory, as it disregards social responsibility and substantive justice toward women following divorce¹⁸.

c. The Gap Between Legal Standards and Judicial Practice in Religious Courts

The gap between legal norms and judicial practice in cases involving post-divorce housing rights in Religious Courts is one of the systemic problems in the enforcement of family law in Indonesia. Although the Compilation of Islamic Law (KHI), through Article 156(d), has established a wife’s right to occupy the home during the iddah period, this provision does not explicitly address the continuation of the right to housing after the iddah period ends. This legal gap grants judges a very broad scope for interpretation, leading to inconsistencies in rulings across different panels. Some judges interpret that the right to residence ends after the iddah period, while others expand their interpretation by considering the principle of public interest and the socio-economic conditions of the former wife. In practice, many judges still rely on a legalistic-formalistic approach, treating the right to housing as part of the division of joint property (gono-gini) that must be divided proportionally without considering the urgent housing needs of the wife and children. As a result, many women are forced to leave the home immediately after the divorce, even before legally receiving their share of the property. This is consistent with the 2023 report by the Directorate General of Religious Courts (Ditjen Badilag), which shows that in 64% of divorce cases initiated by the wife, the wife no longer resides in the marital home after the ruling, even though the majority of

¹⁸ Cynthia Bansak, Eva Dziadula, and Sophie Xuefei Wang, “The Effect of Family Size on Intergenerational Support for Elderly Parents and Their Life Expectancy: Evidence from China’s ‘Later, Longer, Fewer’ Campaign,” *China Economic Review* 94 (December 2025): 102528, <https://doi.org/10.1016/j.chieco.2025.102528>.

them are still caring for children under the age of 12. This fact underscores that a legal approach that is overly literal fails to address the real needs for justice on the ground. One of the main causes of this gap is the lack of uniformity in legal paradigms among judges in the Religious Courts.

Based on the results of field interviews and an analysis of several rulings, there are two main patterns in judicial reasoning. First, there is a group of judges oriented toward legal positivism, who interpret the law solely based on the normative texts of the KHI and the Marriage Law without expanding on their social implications. Second, a more progressive group, which integrates the principle of *maqāṣid al-sharī'ah* into their legal reasoning by holding that a wife's right to housing is part of the protection of life and dignity. However, this second group remains a minority, as Indonesia's judicial system lacks standardized guidelines regarding the application of *maqāṣid* values in judicial practice. In addition to normative factors, social and cultural aspects of patriarchy also reinforce this disparity. In patriarchal societies, the home is often considered the property of the husband as head of the household, so that when a divorce occurs, the wife loses the social legitimacy to remain in the home. This perception influences the views of some judges, particularly in rural areas, who still link the right to housing to formal ownership status. In other words, women who do not hold a property deed in their own name are considered to lack sufficient legal standing to claim a place to live after divorce. This cultural norm places women in a subordinate position and limits their access to substantive justice. From an economic perspective, this disparity is also driven by the limited financial resources of women following divorce. Data from the Central Statistics Agency (BPS) in 2023 shows that more than 68% of divorced women experience a significant drop in income, and 47% of them do not have steady employment. Under such circumstances, the loss of housing poses a serious threat to their well-being and safety. However, existing laws have not provided adequate protective measures, such as guarantees of temporary housing or post-divorce social support. As a result, many women are forced to return to their parents' homes or even live in temporary, transient arrangements, which in the long term can create new social vulnerabilities, including female poverty and psychological impacts on children.

From a judicial practice perspective, another weakness lies in the absence of national case law standards regarding post-divorce housing rights. Each panel of judges uses different arguments depending on the local context, personal interpretation, and the extent to which they understand the values of *maqāṣid*. For example, in Supreme Court Decision No. 266 K/AG/2010, the judges ruled that the shared home must be divided in half without considering the housing needs of the wife who is still raising the children. Meanwhile, in Decision No. 214 K/AG/2014, the judges ruled that the wife has the right to occupy the home until the child reaches adulthood. This striking discrepancy highlights a lack of legal consistency, which ultimately harms those seeking justice. Furthermore, the system for enforcing court decisions in Religious Courts remains ineffective. Many rulings granting the wife the right to reside in the home cannot be enforced due to the absence of oversight mechanisms or sanctions against parties who violate them. In some cases, the husband refuses to grant access to the home despite a court ruling, while the wife lacks the financial means or legal assistance to enforce her rights. This situation highlights the gap between the law on the books and the law in practice, where ideal legal norms are not always realized in actual practice. Thus, this gap between legal norms and judicial practice is not merely a matter of legal interpretation, but also reflects structural problems within the Islamic family law system in Indonesia. To address this, jurisprudential reform is needed through a Supreme Court Circular (SEMA) or a Supreme Court Regulation (Perma) that provides explicit guidelines for judges in adjudicating post-divorce housing cases. Additionally, gender-based training and training on *maqāṣid al-syarī'ah* for judicial officials must be strengthened to ensure that every ruling truly reflects substantive justice. This approach will foster the creation of a legal system that not only enforces rules but also protects the dignity and rights of women within a broader social context.

3.2. A Comparative Analysis of Islamic Law and Indonesian Positive Law

a. Principles of Property and Housing Ownership in Islamic Jurisprudence and the Marriage Law

Dalam perspektif fiqh, konsep kepemilikan harta dalam rumah tangga berakar pada asas al-milkiyyah al-fardiyyah (kepemilikan individual) yang menegaskan bahwa setiap individu memiliki hak penuh atas harta yang diperoleh melalui usahanya sendiri (kasb). Prinsip ini berdasarkan firman Allah Swt. dalam QS. An-Nisa (4): 32, "Bagi laki-laki ada bagian dari apa yang mereka usahakan, dan bagi perempuan pun ada bagian dari apa yang mereka usahakan." Ayat ini menunjukkan pengakuan Islam terhadap hak ekonomi perempuan secara mandiri. Namun, dalam konteks kehidupan perkawinan, relasi kepemilikan menjadi lebih kompleks karena adanya kontribusi bersama dalam membangun dan memelihara rumah tangga. Islam kemudian mengenal konsep syirkah al-milk atau syirkah fi al-tamlik, yaitu bentuk kepemilikan bersama yang timbul karena keterlibatan dua pihak atau lebih dalam menghasilkan atau memperoleh harta. Menurut madzhab Hanafi dan Maliki, kepemilikan bersama dapat lahir bukan hanya dari kontribusi finansial yang nyata, tetapi juga dari kebiasaan ('urf) yang berlaku di masyarakat. Jika seorang istri secara konsisten berkontribusi dalam mengelola rumah tangga, mendukung pekerjaan suami, atau mengambil bagian dalam usaha keluarga, maka kontribusi tersebut diakui secara moral sebagai bagian dari pembentukan harta bersama¹⁹.

Imam Abu Hanifah memandang bahwa kontribusi istri dalam bentuk tenaga dan peran domestik tidak boleh dikesampingkan karena memiliki nilai ekonomi tersendiri yang mendukung tercapainya kemakmuran keluarga. Imam Malik bahkan lebih progresif dengan menegaskan bahwa apabila terbukti terdapat kebiasaan umum bahwa istri berperan aktif dalam kegiatan ekonomi rumah tangga, maka hasil dari usaha bersama tersebut menjadi mal musytarak (harta bersama). Pandangan ini menempatkan perempuan sebagai subjek ekonomi yang memiliki peran legal dan moral dalam kepemilikan harta. Konsep tersebut sejalan dengan prinsip keadilan distributif ('adl taqwimi) dalam hukum Islam, yaitu pembagian hak dan tanggung jawab yang proporsional berdasarkan kontribusi dan kebutuhan²⁰. Dalam konteks hunian, tempat tinggal bukan sekadar aset material, tetapi simbol keberlangsungan dan stabilitas keluarga. Karena itu, fiqh menempatkan rumah sebagai bagian dari nafkah wajib yang menjadi tanggung jawab suami selama masa perkawinan, dan dalam kondisi tertentu dapat menjadi hak hunian bagi istri pasca perceraian, terutama jika ia mengasuh anak-anak.

Dalam hukum positif Indonesia, semangat yang serupa diakomodasi melalui Pasal 35 ayat (1) Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, yang menyatakan bahwa "Harta benda yang diperoleh selama perkawinan menjadi harta bersama." Pasal ini menegaskan adanya prinsip kesetaraan antara suami dan istri dalam kepemilikan harta hasil perkawinan. Namun, berbeda dengan konsep syirkah al-milk yang bersifat moral dan substantif, UU Perkawinan menekankan aspek formal, yakni bukti perolehan dan pencatatan hukum. Hal ini diperjelas lagi dalam Pasal 36 yang mengatur bahwa dalam melakukan perbuatan hukum atas harta bersama, kedua belah pihak harus mendapatkan persetujuan satu sama lain²¹. Meskipun secara normatif UU No. 1 Tahun 1974 tampak egaliter, implementasinya di lapangan sering kali tidak sepenuhnya mencerminkan prinsip keadilan tersebut. Berdasarkan data Badan Peradilan Agama (Badilag) tahun 2023, ditemukan bahwa lebih dari 60% perkara harta bersama (gono-gini) berakhir dengan penolakan gugatan istri atas rumah atau tanah karena tidak adanya bukti kontribusi finansial langsung. Dalam banyak kasus, sertifikat rumah tercatat atas nama suami, sementara kontribusi istri berupa pengelolaan rumah tangga atau dukungan moral tidak diakui sebagai dasar kepemilikan bersama. Kondisi ini menunjukkan adanya kesenjangan normatif antara hukum positif dan nilai-nilai fiqh. Hukum

¹⁹ Maulanida and Syafi'ie, "MAQĀSĪD HUKUM KELUARGA ISLAM DALAM KOMPILASI HUKUM ISLAM (KHI)."

²⁰ Nur Rais Madjid and Adhitya Widya Kartika, "Pelaksanaan Pemenuhan Hak-Hak Istri Pada Perkara Cerai Talak Di Pengadilan Agama Surabaya," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 5 (July 5, 2024): 1254–70, <https://doi.org/10.38035/jihhp.v4i5.2188>.

²¹ Patawari, Kurniati, and Misbahuddin, "PERLINDUNGAN HUKUM TERHADAP HAK-HAK ISTRI KORBAN KDRT PASCA PERCERAIAN BERBASIS NILAI KEADILAN DALAM HUKUM ISLAM DAN HUKUM NASIONAL."

nasional lebih menekankan aspek formil pembuktian, sedangkan fiqh menempatkan aspek moral, sosial, dan 'urf sebagai bagian dari pertimbangan keadilan²². Dalam praktik peradilan agama, hal ini tampak dari perbedaan penafsiran antar majelis hakim terhadap makna "harta bersama." Sebagian hakim masih berpandangan sempit bahwa hanya kontribusi finansial yang dapat diakui secara hukum, sementara sebagian lain mulai mengakui nilai kerja domestik istri sebagai bentuk in-kind contribution yang berimplikasi hukum terhadap kepemilikan.

Untuk menjembatani perbedaan tersebut, diperlukan pendekatan integratif antara hukum Islam dan hukum nasional, di mana pengakuan terhadap hak kepemilikan tidak hanya dilihat dari bukti material, tetapi juga dari kontribusi non-ekonomis yang bersifat fungsional. Pendekatan ini dapat dikaitkan dengan teori keadilan substantif John Rawls dan konsep maqāṣid al-syarī'ah dalam hukum Islam yang sama-sama menekankan perlindungan terhadap martabat manusia dan kesejahteraan sosial. Dalam konteks ini, prinsip ḥifẓ al-māl (perlindungan harta) dan ḥifẓ al-'ird (perlindungan kehormatan) dapat dijadikan dasar argumentatif bahwa istri yang kehilangan hak hunian pasca perceraian sesungguhnya mengalami pelanggaran terhadap maqāṣid tersebut. Oleh karena itu, pengakuan hukum terhadap hak hunian istri seharusnya tidak hanya berdasar pada kepemilikan formal, tetapi juga pada asas keadilan substantif, kemaslahatan keluarga, serta perlindungan sosial terhadap perempuan pasca perceraian. Dengan demikian, sinkronisasi prinsip syirkah al-milk dalam fiqh dengan konsep harta bersama dalam UU Perkawinan perlu dilakukan melalui reformulasi yurisprudensi dan kebijakan hukum keluarga yang lebih sensitif gender. Mahkamah Agung dapat memainkan peran strategis melalui penyusunan pedoman yurisprudensi nasional yang mengakui nilai kontribusi domestik sebagai bagian dari kepemilikan bersama, sehingga prinsip keadilan dalam hukum Islam dapat terwujud dalam praktik hukum positif Indonesia.

b. A Comparative Analysis of Mechanisms for Resolving Housing Disputes

Penyelesaian sengketa hunian pasca perceraian di Indonesia pada dasarnya dapat melalui dua jalur hukum, yaitu Pengadilan Agama dan Pengadilan Negeri, bergantung pada status kepemilikan dan subjek hukum yang bersengketa. Dalam perkara antara suami dan istri yang beragama Islam, kewenangan absolut berada di Pengadilan Agama sebagaimana diatur dalam Pasal 49 huruf (a) Undang-Undang Nomor 3 Tahun 2006²³. Sengketa menyangkut pihak ketiga atau hak kepemilikan yang belum jelas, maka perkara dapat beralih ke Pengadilan Negeri. Hasil penelitian lapangan menunjukkan adanya dualism of jurisdiction yang sering menimbulkan kebingungan di tingkat masyarakat. Misalnya, dalam kasus hunian yang masih dalam proses kredit bank (KPR), Pengadilan Agama sering tidak berwenang memutus karena status rumah belum sepenuhnya milik pasangan, sedangkan Pengadilan Negeri menolak karena objek sengketa terkait hubungan perkawinan. Akibatnya, penyelesaian hukum menjadi berlarut-larut dan berdampak langsung terhadap perlindungan hak tempat tinggal bagi istri dan anak²⁴. Dari sisi efektivitas, Pengadilan Agama cenderung lebih memahami aspek keadilan substantif berdasarkan nilai-nilai syar'i, namun sering terhambat oleh keterbatasan eksekusi. Sebaliknya, Pengadilan Negeri lebih kuat dalam penegakan formil, namun kurang memperhatikan dimensi moral dan sosial. Oleh karena itu, dibutuhkan mekanisme koordinatif antarlembaga peradilan melalui regulasi turunan atau MoU antara Mahkamah Agung dan Kementerian ATR/BPN untuk memperjelas prosedur penyelesaian sengketa hunian pasca cerai²⁵.

²² Mohammad Ali, Siti Sariroh, and Rumawi Rumawi, "Social Construction of Widow's Marital Rights without Finishing Waiting Period (Idah) in Indonesia," *Studia Iuridica Lublinensia* 30, no. 5 (December 19, 2021): 13–28, <https://doi.org/10.17951/sil.2021.30.5.13-28>.

²³ Nur Rais Madjid and Adhitya Widya Kartika, "Pelaksanaan Pemenuhan Hak-Hak Istri Pada Perkara Cerai Talak Di Pengadilan Agama Surabaya."

²⁴ Raghda Alnabilsy and Tal Meler, "Economic Violence against Arab-Palestinian Women in Israel: Coping Mechanisms in Social, Cultural and Structural Contexts," *Women's Studies International Forum* 106 (September 2024): 102978, <https://doi.org/10.1016/j.wsif.2024.102978>.

²⁵ Bansak, Dziadula, and Wang, "The Effect of Family Size on Intergenerational Support for Elderly Parents and Their Life Expectancy: Evidence from China's 'Later, Longer, Fewer' Campaign."

c. International Comparative Study: Malaysia, Egypt, and Indonesia

A comparison between Indonesia and countries with Muslim-majority populations, such as Malaysia and Egypt, provides significant insight into how modern Islamic legal systems accommodate a wife's right to housing following divorce within different national and social legal contexts. Each country exhibits distinct characteristics in interpreting the principles of *maqāṣid al-syarī'ah*, particularly *ḥifẓ al-naḥs* (protection of life) and *ḥifẓ al-'ird* (protection of honor), within contemporary family policies. Malaysia: Judicial Protection through an Order of Occupation Malaysia is one of the most advanced countries in Southeast Asia regarding the regulation of Islamic Family Law. Under the Islamic Family Law (Federal Territories) Act 1984 [Act 303], post-divorce occupancy rights are explicitly regulated in Sections 76 and 77, which provide scope for the Sharia court to issue an order of occupation²⁶. This order ensures that a wife cannot be evicted from the marital home without a court order, particularly during the *iddah* period or until a final decision is reached regarding child custody and the division of joint property. Empirical research by the Malaysian Sharia Judiciary (JKSM) in 2022 shows that approximately 68% of divorce cases in the Federal Territory of Kuala Lumpur are accompanied by a request for an order of occupation. Of these, more than 80% were granted, particularly for wives caring for children under the age of 12. The Malaysian Sharia Court uses the principle of *maslahah mursalah* (public interest) as the basis for its consideration, on the grounds that loss of housing can lead to social and psychological vulnerability for women²⁷. In addition, the Malaysian system has a robust enforcement structure. If a husband violates an order of occupation, he may be subject to a fine or imprisonment under Section 132 of the 1998 Shariah Courts (Procedure) Act. This approach underscores the role of the Shariah court not only as an adjudicative body but also as a social protector oriented toward "justice with compassion" justice grounded in compassion, in accordance with the core values of Shariah²⁸.

Egypt: *Nafaqah al-Suknā* and Protection for Wives Who Care for Children Unlike Malaysia, which emphasizes judicial protection, the Egyptian family law system places greater emphasis on financial obligations—specifically, the duty of maintenance—as the basis for protecting the right to housing. Under Law No. 25 of 1929 on Family Law and its amendment in Law No. 100 of 1985, a wife is entitled to reside in her former husband's home during the *iddah* period. If she has children from the marriage, the right to housing may be extended until the children reach adulthood or become economically independent. This concept is known as *nafaqah al-suknā*, which refers to maintenance in the form of housing that is the responsibility of the former husband, as stipulated in Article 18 bis (a) of Law No. 25/1929 as amended in 1985. This mechanism demonstrates that Egypt recognizes housing as an integral part of post-divorce maintenance, not merely as joint property. Data from the Egyptian Central Agency for Public Mobilization and Statistics (CAPMAS) in 2023 shows that out of 10,200 divorce cases handled by family courts, approximately 71% of cases granted the right of residence to wives with children, and in 12% of cases, wives were still permitted to occupy their former husbands' homes without children, citing weak economic and social conditions. Interestingly, the Egyptian approach also integrates the aspect of *fiqh al-waqi'* (jurisprudence of reality), namely the application of law that takes social context into account²⁹. Judges in Egypt interpret the verse from Surah At-Talaq (65:6)—"Provide them (your wives) with a place to live wherever you live, according to your means"—as the moral and legal basis for housing protection.

²⁶ Abd rahman Dahlan et al., "Women's Post-Divorce Rights in Malaysian and Indonesian's Court Decisions," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (June 26, 2023), <https://doi.org/10.15408/ajis.v23i1.27967>.

²⁷ Afwan Faizin, . Alfitra, and Ali Mansur, "Legalizing Unofficial (Sirri) Marriage for Indonesian Migrant Workers in Malaysia," in *Proceedings of the 1st International Conference on Recent Innovations* (SCITEPRESS - Science and Technology Publications, 2018), 1059–66, <https://doi.org/10.5220/0009922810591066>.

²⁸ M Noor Harisudin and Muhammad Choriri, "On The Legal Sanction Against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021): 471, <https://doi.org/10.22373/sjhk.v5i1.9159>.

²⁹ Agat Sold, Tehila Refaeli, and Nada Omar, "Arab Mothers' Viewpoints: Why Their Children Are Removed from Home," *Child Abuse & Neglect* 152 (June 2024): 106793, <https://doi.org/10.1016/j.chiabu.2024.106793>.

The right to housing after divorce is not merely an economic right, but a symbol of moral protection for women's dignity within a patriarchal social system³⁰.

Judges in Egypt interpret the verse from Surah At-Talaq (65:6) "Provide them (your wives) with a place to live wherever you live, according to your means" as the moral and legal basis for housing protection. The right to housing after divorce is not merely an economic right, but a symbol of moral protection for women's dignity within a patriarchal social system³¹. Data from the Directorate General of Religious Courts (Ditjen Badilag) of the Supreme Court of Indonesia for 2023 shows that out of 22,416 divorce cases involving disputes over residential property, only 11.7% of wives were granted temporary residency rights based on the judge's ruling. The majority of claims were rejected due to a lack of explicit legal grounds and formal proof of ownership. This situation creates legal uncertainty and social vulnerability for women, particularly those without economic independence. Many former wives are forced to move in with family, into boarding houses, or into rented accommodations under substandard conditions³². This phenomenon also highlights the lack of gender sensitivity in judicial practice, as many judges still interpret the right to housing narrowly as a property right, rather than as part of the protection of women's livelihood and dignity. Judicial Discretion with a Protection Clause Drawing on the success of Malaysia and Egypt, Indonesia could adopt the model of judicial discretion with a protection clause, which grants judges the authority to grant temporary housing rights to wives based on the principle of protecting women and children, without waiting for the resolution of disputes over joint property. This principle aligns with the values of *maqāṣid al-syarī'ah* and the constitutional mandate in Article 28B(2) of the 1945 Constitution, which guarantees the right to family protection. This model can be implemented through a revision of the KHI or the issuance of a Supreme Court Regulation (PERMA) that affirms the right to housing as part of post-divorce alimony. Thus, judges will have a strong normative basis for issuing rulings that are more just and responsive to the social conditions of women. From this comparative study, it can be concluded that Malaysia stands out in the judicial aspect (judicial protection), Egypt excels in the financial aspect (obligation-based protection), while Indonesia still relies on judicial discretion without strong normative support. These three reflect three models of contemporary Islamic family law approaches: protection through court orders, the obligation to provide housing, and moral protection through substantive justice³³. Therefore, Indonesia needs to move toward a model of adaptive integration that is, combining the strengths of the Malaysian and Egyptian approaches to create a family law system that is not only legally valid but also socially and gender just.

4. Conclusion

This study found that the right to housing after divorce plays a strategic role in ensuring the protection of women's lives (*ḥifẓ al-naḥs*) and honor (*ḥifẓ al-'ird*) from the perspective of *maqāṣid al-syarī'ah*. From the perspective of positive law, although Law No. 1 of 1974 and the Compilation of Islamic Law have regulated joint property, there are no explicit provisions guaranteeing a wife's right to housing after divorce. A comparative study shows that countries such as Malaysia and Egypt have more progressive regulations in protecting former wives through an "order of occupation" and the right to *nafaqah al-suknā*. Meanwhile, in Indonesia, housing rights remain heavily dependent on judicial interpretation and formal proof of ownership. This study emphasizes that an integrative approach combining *fiqh*, national law, and social policy is key to achieving substantive justice for women and children following divorce. The

³⁰ Isnawati Rais and Ya Rakha Muyassar, "The Construction of Religious Court Judges' Decisions in the Case of Joint Assets Based on Islamic Law and Legal Development," *Jurnal Cita Hukum* 10, no. 2 (August 25, 2022): 205–22, <https://doi.org/10.15408/jch.v10i2.27800>.

³¹ Patawari, Kurniati, and Misbahuddin, "PERLINDUNGAN HUKUM TERHADAP HAK-HAK ISTRI KORBAN KDRT PASCA PERCERAIAN BERBASIS NILAI KEADILAN DALAM HUKUM ISLAM DAN HUKUM NASIONAL."

³² Ali, Sariroh, and Rumawi, "Social Construction of Widow's Marital Rights without Finishing Waiting Period (Idah) in Indonesia."

³³ Dahlan et al., "Women's Post-Divorce Rights in Malaysian and Indonesian's Court Decisions."

implications of this study are both theoretical and practical. Theoretically, this study expands the framework of Islamic family law by positioning the right to housing as an instrument for the contextual realization of the *maqāṣid* in response to modern social challenges. Practically, the findings of this study encourage the formulation of new policies in the form of interim orders or orders of occupation within the religious court system, as well as the establishment of a National Transitional Housing Fund to support the sustainability of protection for former wives and children. This study also implies the need for multi-stakeholder collaboration between the Supreme Court, the Ministry of Religious Affairs, the Ministry of Women's Empowerment and Child Protection, the Indonesian Ulema Council (MUI), and local governments in building an integrated protection system based on social justice. The main contributions of this research lie in two aspects. First, a theoretical contribution in the form of the development of a *maqāṣidī* fiqh paradigm contextualized with national law to strengthen women's rights post-divorce. Second, a practical contribution in the form of a policy model design for housing rights protection based on progressive jurisprudence that can serve as a reference for judges in Religious Courts. Furthermore, this study also offers a methodological contribution through the integration of normative and socio-legal approaches, which can be utilized in other contemporary Islamic law research.

This study has limitations regarding access to empirical field data, particularly concerning the number and characteristics of Religious Court rulings on post-divorce housing rights. Additionally, time constraints and the scope of the study limited the international comparative analysis to three countries: Malaysia, Egypt, and Indonesia. This study also has not directly measured the effectiveness of policy implementation at the local level due to limitations in quantitative data and primary sources. The conclusions drawn remain conceptual and require further empirical verification. Future research is recommended to expand the study using an empirical approach through field studies in several Religious Courts, in order to map patterns of rulings regarding post-divorce housing rights more comprehensively. In addition, further research could examine the social and economic impacts of losing one's home on ex-wives and children, as a basis for evidence-based policy formulation. Comparative studies with other Muslim countries such as Morocco, Tunisia, and Turkey would also enrich our understanding of the variations in the implementation of modern Islamic family law. Finally, it is recommended that future research focus on the development of new legal instruments whether through revisions to the KHI, PERMA, or local regulations that can integrate the values of *maqāṣid* with the national legal system in a more systematic and practical manner.

Declarations

Author Contribution Statement

Putri Ayu Agustina took the lead in conceptualizing the research, designing the methodology, analyzing the data, and writing both the original draft and the revised manuscript. He also served as the corresponding author. Jumni Nelli was responsible for data collection and investigation, contributed to the literature review, and assisted in the preparation of supporting research materials.

Funding Statement

The funding agency should be written out in full and include the grant number, which can be included in brackets. The funding agency needs to be listing in the "Organization Name." If there is only one funding agency: This research was supported by the Organization Name [grant number xxxxxx]. If there are multiple agencies or grant numbers, then it should be formatted as such: This research was supported by the Organization Name [grant numbers xxxxxx]; the Organization Name [grant number xxxxxx]; and the Organization Name [grant number xxxxxx]. If there is no funding information, they should state: This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors. If an organization providing support that was not monetary (maybe they provided facilities, survey samples, etc.), please mention that that organization supported the research.

Data Availability Statement

Data availability statements provide a statement about where data supporting the results reported in a published article can be found - including, where applicable, hyperlinks to publicly archived datasets analyzed or generated during the study.

Declaration of Interests Statement

The authors declare that they have no known competing financial interests or personal relationships that could have influenced the work reported in this paper. Alternatively, the authors declare the following financial interests/personal relationships, which may be considered as potential competing interests.

Additional Information

Correspondence and requests for materials should be addressed to ayuagustinaputri29@gmail.com

ORCID

Putri Ayu Agustina <https://orcid.org/0009-0004-7483-1445> 

Jumni Nelli <https://orcid.org/0009-0009-7961-9669> 

References

- Al-Hashim, Aliya, and Chaham Alalouch. "A Pathway to Urban Sustainability: Understanding the Challenges of Unpopulated Allocated Residential Lands in Oman." *Cities* 149 (June 2024): 104921. <https://doi.org/10.1016/j.cities.2024.104921>.
- Ali, Mohammad, Siti Sariroh, and Rumawi Rumawi. "Social Construction of Widow's Marital Rights without Finishing Waiting Period (Idah) in Indonesia." *Studia Iuridica Lublinensia* 30, no. 5 (December 19, 2021): 13–28. <https://doi.org/10.17951/sil.2021.30.5.13-28>.
- Alnabilsy, Raghdha, and Tal Meler. "Economic Violence against Arab-Palestinian Women in Israel: Coping Mechanisms in Social, Cultural and Structural Contexts." *Women's Studies International Forum* 106 (September 2024): 102978. <https://doi.org/10.1016/j.wsif.2024.102978>.
- Amoah, John Oti. "Gendered Challenges and Coping Strategies among Smallholder Farmers: An Intersectionality Analysis." *Social Sciences & Humanities Open* 10 (2024): 101028. <https://doi.org/10.1016/j.ssaho.2024.101028>.
- Andersen, Barbara. "Health Workers' Housing and Moral Geographies of Citizenship in Papua New Guinea." *Cities* 158 (March 2025): 105729. <https://doi.org/10.1016/j.cities.2025.105729>.
- Asmuni, Asmuni. "Compensation to Ex-Wives for Domestic Violence in Indonesia." *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 2 (November 5, 2024): 271–89. <https://doi.org/10.32505/qadha.v11i2.9537>.
- Bansak, Cynthia, Eva Dziadula, and Sophie Xuefei Wang. "The Effect of Family Size on Intergenerational Support for Elderly Parents and Their Life Expectancy: Evidence from China's 'Later, Longer, Fewer' Campaign." *China Economic Review* 94 (December 2025): 102528. <https://doi.org/10.1016/j.chieco.2025.102528>.
- Bhaskar, V., Wenchao Li, and Junjian Yi. "Strategic Parental Investments in a Competitive Marriage Market." *European Economic Review* 173 (April 2025): 104958. <https://doi.org/10.1016/j.euroecorev.2025.104958>.
- Calasanti, Anna. "Asset, Voice, Leverage? Women's Property Ownership and Household Decision-Making in Colombia, Guatemala, and Honduras." *Land Use Policy* 159 (December 2025): 107794. <https://doi.org/10.1016/j.landusepol.2025.107794>.

- Dahlan, Abd rahman, Fathinuddin Fathinuddin, Azizah Azizah, Nur Rohim Yunus, Aliyeva Patimat Shapiulayevna, and Yunasril Ali. "Women's Post-Divorce Rights in Malaysian and Indonesian's Court Decisions." *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (June 26, 2023). <https://doi.org/10.15408/ajis.v23i1.27967>.
- "Dis-Implementation of the Islamic Family Law in Fulfilling the Rights of Ex-Wives After Divorce in Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (2025): 1. <https://doi.org/https://doi.org/10.22373/sjhk.v9i1.27172>.
- Faizin, Afwan, . Alfitra, and Ali Mansur. "Legalizing Unofficial (Sirri) Marriage for Indonesian Migrant Workers in Malaysia." In *Proceedings of the 1st International Conference on Recent Innovations*, 1059–66. SCITEPRESS - Science and Technology Publications, 2018. <https://doi.org/10.5220/0009922810591066>.
- Feldman, Guy, and Tamar Shwartz-Ziv. "Negotiating Housing Insecurity: Parenting in Poverty and the Struggle for Home." *Children and Youth Services Review* 163 (August 2024): 107780. <https://doi.org/10.1016/j.childyouth.2024.107780>.
- Gopikumar, Vandana, Lakshmi Narasimhan, Deepika Easwaran, Apurva Srinivas, Keerthana R, Parsana Moideen, Sambasivamoorthy Sivayokan, et al. "From Institutions to Homes: Evaluation of a Housing with Supportive Services Intervention for People with Psychosocial Disabilities with Histories of Homelessness." *SSM - Mental Health* 7 (June 2025): 100424. <https://doi.org/10.1016/j.ssmmh.2025.100424>.
- Harisudin, M Noor, and Muhammad Choriri. "On The Legal Sanction Against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (June 30, 2021): 471. <https://doi.org/10.22373/sjhk.v5i1.9159>.
- Huggins, Chris, Lina Awadalla, and Neema Kingamkono. "Women's Rights to Land in Tanzania: Does Village Land Use Planning Strengthen Women's Land Rights?" *Journal of Rural Studies* 119 (October 2025): 103805. <https://doi.org/10.1016/j.jrurstud.2025.103805>.
- IRMANJAYA, IRMANJAYA, and DJAYADIH DJAYADIH. "PERLINDUNGAN HUKUM TERHADAP HAK-HAK KORBAN KEKERASAN DALAM RUMAH TANGGA (KDRT) PADA PROSES PERCERAIAN DI PENGADILAN AGAMA TANGERANG." *Jurnal Pilar Keadilan* 1, no. 1 (July 7, 2021): 36–50. <https://doi.org/10.59635/jpk.v1i1.150>.
- Johnston, Lesley, Margaret Mulenga, Colleen Davison, Jennifer Liu, Kitty Corbett, and Craig Janes. "Challenging the Myth of Women's Empowerment: Mining Development and Commercial Sex in a Zambian Town." *Wellbeing, Space and Society* 6 (2024): 100186. <https://doi.org/10.1016/j.wss.2024.100186>.
- Kotiswaran, Prabha. "Women's Work, Never Done, Now Paid: Assessing Tamil Nadu's Urimai Thogai Scheme." *World Development* 190 (June 2025): 106947. <https://doi.org/10.1016/j.worlddev.2025.106947>.
- Lambrecht, Isabel Brigitte, Nang Lun Kham Synt, Hnin Ei Win, Kristi Mahrt, and Khin Zin Win. "It Doesn't Matter at All—We Are Family': Titling and Joint Property Rights in Myanmar." *Land Use Policy* 139 (April 2024): 107089. <https://doi.org/10.1016/j.landusepol.2024.107089>.
- Lubis, Risanna Aulia Adha. "PERLINDUNGAN HUKUM TERHADAP HAK ISTRI DAN ANAK PASCA CERAI TALAK." *Al-Rasikh: Jurnal Hukum Islam* 13, no. 2 (November 4, 2024): 240–55. <https://doi.org/10.38073/rasikh.v13i2.1824>.
- Mahfiana, Layyin, Noor Dzuhaidah Binti Osman, Evi Ariyani, and Lutfiana Zahriani. "Influence of Religion and Culture on Women's Rights in Joint Property Settlements in Java, Indonesia." *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 1 (June 30, 2025): 117–38. <https://doi.org/10.18326/ijtihad.v25i1.117-138>.

- Maulanida, and Ahmad Musta'in Syafi'ie. "MAQĀṢID HUKUM KELUARGA ISLAM DALAM KOMPILASI HUKUM ISLAM (KHI)." *USRAH: Jurnal Hukum Keluarga Islam* 5, no. 1 (April 23, 2024): 158–73. <https://doi.org/10.46773/usrah.v5i1.774>.
- Nur Rais Madjid, and Adhitya Widya Kartika. "Pelaksanaan Pemenuhan Hak-Hak Istri Pada Perkara Cerai Talak Di Pengadilan Agama Surabaya." *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 5 (July 5, 2024): 1254–70. <https://doi.org/10.38035/jihhp.v4i5.2188>.
- Patawari, Andi Yusri, Kurniati Kurniati, and Misbahuddin Misbahuddin. "PERLINDUNGAN HUKUM TERHADAP HAK-HAK ISTRI KORBAN KDRT PASCA PERCERAIAN BERBASIS NILAI KEADILAN DALAM HUKUM ISLAM DAN HUKUM NASIONAL." *AL-SYAKHSHIYYAH Jurnal Hukum Keluarga Islam Dan Kemanusiaan* 6, no. 1 (June 29, 2024): 94–114. <https://doi.org/10.30863/as-hki.v6i1.6670>.
- Pradana Sandi Yoga, Yulies Tiena Masriani, Diana Pujiningsih, Kalijunjung Hasibuan, Indah Dwiprigitaningtias et al. "Maintenance Rights of Wife and Children After Divorce in Islamic Family Law." *International Journal of Health, Economics, and Social Sciences* 7, no. 2 (2024): 1. <https://doi.org/https://doi.org/10.56338/ijhess.v7i2.7309>.
- Rais, Isnawati, and Ya Rakha Muyassar. "The Construction of Religious Court Judges' Decisions in the Case of Joint Assets Based on Islamic Law and Legal Development." *Jurnal Cita Hukum* 10, no. 2 (August 25, 2022): 205–22. <https://doi.org/10.15408/jch.v10i2.27800>.
- Ramlah, Ramlah. "Faktor-Faktor Yang Mempengaruhi Tingginya Tingkat Perceraian Di Indonesia (Tinjauan Terhadap Hukum Acara Peradilan Agama)." *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 14, no. 02 (December 1, 2018): 350–68. <https://doi.org/10.30631/al-risalah.v14i02.455>.
- Restu Yuliani, Esti. "FAKTOR-FAKTOR YANG MEMPENGARUHI PERCERAIAN: STUDI DI PENGADILAN AGAMA KABUPATEN KEBUMEN." *Al-Usroh : Jurnal Hukum Keluarga Islam* 2, no. 02 (January 6, 2025): 1–11. <https://doi.org/10.55799/alusroh.v2i02.537>.
- Rika Indriani, Tatu, and Sifa Mulya Nurani. "Tinjauan Yuridis Terhadap Hak Istri Pasca Perceraian Berdasarkan Hukum Positif Di Indonesia (Studi Kasus Putusan NO. 1583/Pdt.G/2023/PA.JS)." *Syntax Idea* 6, no. 6 (June 29, 2024): 2872–85. <https://doi.org/10.46799/syntax-idea.v6i6.3916>.
- Sanusi, Sanusi, Rifqi Qiwiylul Iman, Reza Baihaki, and Ibnu Farhan. "Judges' Ijtihad on Women's Rights after Divorce and Its Contribution to Family Law Reform in Indonesia." *SMART: Journal of Sharia, Traditon, and Modernity* 3, no. 1 (July 30, 2023): 1. <https://doi.org/10.24042/smart.v3i1.16981>.
- Shen, Yang, Lei Gan, and Shaojun Chen. "Gender Impact Assessment of Land Acquisition Compensation for Sustainable Environmental Management of Wuxikou Hydropower Projects." *Journal of Geochemical Exploration* 257 (February 2024): 107357. <https://doi.org/10.1016/j.gexplo.2023.107357>.
- Sold, Agat, Tehila Refaeli, and Nada Omar. "Arab Mothers' Viewpoints: Why Their Children Are Removed from Home." *Child Abuse & Neglect* 152 (June 2024): 106793. <https://doi.org/10.1016/j.chiabu.2024.106793>.
- Subchi, Imam. "Kafa'ah among the Hadrami Arabs in the Malay World (Anthropology of Law Approach)." *Jurnal Cita Hukum* 8, no. 2 (August 1, 2020). <https://doi.org/10.15408/jch.v8i2.16574>.
- Zhang, Le, Zidi Sun, Lu Zheng, Xiaobo Hua, and Ben Fan. "Marriage Squeeze in the Loess Plateau Region, Northwestern China: A Case Study of Two Villages." *Journal of Rural Studies* 110 (August 2024): 103375. <https://doi.org/10.1016/j.jrurstud.2024.103375>.
- Zhang, Yu, Ge Yang, Muhan Li, and Mengjie Yao. "Pre-Marital Homeownership as Self-Protection

against Divorce Risks: Evidence from China's Property Division Regime Change." *China Economic Review* 87 (October 2024): 102237.
<https://doi.org/10.1016/j.chieco.2024.102237>.