

Assessing Public Legal Awareness of Divorce Procedures in Islamic Family Courts

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Abstract

This study examines the fundamental issue of epistemological tension as well as the potential for synergy between classical integrative methodology and contemporary integrative methodology in the study of Islamic education. The purpose of this study is to analyze in depth the similarities, differences, and potential synthesis of both approaches as an effort to construct a relevant paradigm of Islamic education in the modern era. The research was conducted using a qualitative method with a content analysis approach and comparative analysis. The results indicate that classical integrative methodology is rooted in the concept of *wahdat al-'ilm* with a theocentric orientation, whereas contemporary integrative methodology is dialogical, multidisciplinary, and responsive to the development of modern scientific knowledge. A new finding of this study is the importance of reconstructing a methodology that not only preserves the values of *tawhid* but also promotes social transformation and scientific innovation. The main conclusion of this study is that a synthesis of the two is necessary to produce a transformative-integrative model that is relevant to the needs of Islamic Higher Education Institutions in the era of globalization. These findings are significant for the development of curricula, educational policies, and interdisciplinary research oriented toward forming individuals who are holistic, critical, productive, and contributive.

INTRODUCTION

In the view of Sayyid Sabiq, divorce is the dissolution or termination of the marital bond (Hafidzi & Hani, 2020; Kusmardani, 2024). Abdur Rahman al-Jaziri defines *talaq* as the formal act of releasing the marital status, referring to the dissolution of the marriage bond that renders marital relations between husband and wife no longer lawful (Hidayat et al., 2019). Although Islam permits divorce, it strongly emphasizes the importance of maintaining family unity. Before divorce occurs, Islam encourages the appointment of a conciliator or mediator (*bakam*) tasked with resolving conflicts and reconciling disputing spouses. This demonstrates that Islam prioritizes reconciliation over separation (Fazaluddin, 2016; Sadia, 2024).

In West Sumatra, communities maintain strong kinship traditions, and domestic conflicts are often resolved through family deliberation. However, in practice, many divorces are still carried out outside the Religious Court. Data from 2020–2024 show a considerable number of divorces performed through customary

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practices or through the pronouncement of *ṭalāq* without state authorization. The data are presented as follows:

No	Year	Divorces outside the religious court	Divorces through the religious court
1	2020	6	4
2	2021	8	3
3	2022	6	8
4	2023	7	3
5	2024	9	6
Total		36	24
Overall Total Cases		60	

The data show that divorces conducted outside the Religious Court remain higher than those processed legally. Over five years, 36 divorces occurred outside the court system, while only 24 cases were officially processed by the Religious Court. This indicates that some communities in West Sumatra continue to view extrajudicial divorce practices as valid and acceptable.

A study on legal awareness related to divorce procedures in West Sumatra is important for three reasons. First, in terms of legal compliance, divorces conducted outside the Religious Court contradict statutory regulations, particularly Law Number 1 of 1974 on Marriage (Azwir et al., 2022; Desimaliati, 2022; Kholidah et al., 2024). Second, extrajudicial divorces create significant social impacts, including uncertainty regarding marital legal status, obstacles to remarriage, and the lack of protection concerning child maintenance and rights. Third, such research is needed to improve public understanding and legal awareness regarding the importance of obtaining official divorce authorization through judicial mechanisms (Ardiningrum et al., 2021; Cantika et al., 2018; Langputeh et al., 2023; Satrianis et al., 2021).

Divorce without a court ruling results in the absence of legally binding provisions regarding child support and other post-divorce obligations (Rizal, 2021). Regulations concerning divorce in Indonesia are clearly stipulated in Law Number 1 of 1974 on Marriage, which states in Article 39(1) that divorce may only be carried out before a court session after mediation efforts have failed. This is further reinforced by Government Regulation Number 9 of 1975 and Law Number 7 of 1989 on the Religious Courts, along with Presidential Instruction Number 1 of 1991 (Bilalu et al., 2022; McConnell, 2017). Therefore, it is essential to examine the extent of public legal awareness in West Sumatra regarding the requirement to file for divorce through the Religious Court, as well as the factors contributing to the persistently high number of divorces conducted outside legal procedures.

METHODS

This study employs a qualitative method with a case study approach aimed at gaining an in-depth understanding of social phenomena within their natural context (Ai, 2022, 2022; Kächele, 2018). This method was chosen because it aligns with the research focus on community legal awareness regarding divorce procedures in the Religious Court in West Sumatra. Data were collected through in-depth interviews with individuals who carried out divorces outside the Religious Court, as well as other key informants relevant to the issue. The interviews were conducted face-to-face, and when necessary, they could be carried out online through video calls or text messages based on the agreement of both parties. The research site was selected due to the researcher's familiarity with the local community, which facilitated more effective and contextual observation and data collection (Engkizar et al., 2023; Engkizar et al., 2023).

The data sources in this study consist of primary and secondary data. Primary data were obtained through interviews and direct observations of community members who conducted divorces outside the Religious Court. Meanwhile,

secondary data were collected from documentary sources such as books, theses, scholarly journals, legal regulations, and other relevant archival materials (Engkizar Engkizar et al., 2025; Gerring, 2017). Primary data provide factual information from the field, whereas secondary data serve to complement, strengthen, and offer a theoretical framework to enrich the analysis (Poya et al., 2023). The combination of these data types enables triangulation, thereby increasing the validity of the findings, particularly in understanding the social, cultural, and legal dimensions of divorce practices outside formal judicial institutions (Gammelgaard, 2017; Halkias et al., 2022; Lungu, 2022).

Data analysis was carried out through three main stages: tabulation, classification, and interpretation. Tabulation was used to organize the data into tables to facilitate identification and evaluation. Classification involved grouping the data based on themes or specific categories, such as the causes of divorce and the level of community legal awareness. Subsequently, interpretation was conducted to derive meaning from the data and identify patterns and relationships among research variables (Engkizar et al., 2025; Engkizar et al., 2022, 2025). The analysis adopted a descriptive-inductive approach, describing the findings factually from the field and drawing general conclusions from specific patterns identified in the data. Through this approach, the study aims to provide a comprehensive understanding of the factors contributing to low legal awareness and the socio-legal implications of divorce practices outside the Religious Court in West Sumatra.

RESULT AND DISCUSSION

The general social conditions in West Sumatra indicate that customary values and family-based decision-making still play a significant role in resolving household matters, including divorce. In this context, divorce practices outside the Religious Court continue to occur because they are considered faster, simpler, and more in line with local traditions. This situation was expressed by a community leader, who stated, *“As long as it is witnessed by the family and traditional elders, for us the divorce is valid, and there is no need to go to the court (informant).”* Divorce data from 2020–2024 show that this phenomenon remains dominant. A total of 60 divorce cases were recorded over five years, with 36 conducted outside the Religious Court and only 24 processed through formal judicial mechanisms. The prevalence of non-formal divorce practices suggests that legal compliance remains limited, despite the regulations stipulated in Law No. 1 of 1974 on Marriage and the Islamic Law Compilation (Indra et al., 2023; Lubis, 2023; Sitompul et al., 2023).

The level of legal awareness regarding divorce procedures was analyzed using four indicators proposed by Soerjono Soekanto: legal knowledge, legal understanding, legal attitude, and legal behavior. Based on the findings, the community possesses basic knowledge about the requirement to process divorce through the Religious Court, but this knowledge is not yet comprehensive. One informant noted, *“I know that a divorce should be handled in court, but I don’t really understand what the procedures are or what documents are needed (informant).”* Most respondents were aware that divorce ideally requires judicial processing, yet many were unfamiliar with the specific steps, such as witness requirements, administrative procedures, or legal implications for the status of the wife and children (Eekelaar, 2017; Rahman & Sirri, 2024; Soleh, 2025). This limited knowledge corresponds with weak legal understanding. Some individuals still believe that divorce is valid once pronounced in front of family members or customary leaders, without realizing that such a practice has no legal force. Another informant mentioned, *“If the husband declares divorce in front of the parents, we consider it final. We did not know that legally it is still not recognized (informant).”*

Community attitudes toward legal procedures also reflect a degree of ambivalence. Although people acknowledge the importance of state law, they tend to favor customary and family-based mechanisms in practice. One female informant stated, *“Going to court takes a long time and feels embarrassing; family matters are not supposed to be brought outside (informant).”* Perceptions of lengthy court processes, high costs, and the discomfort of discussing family problems in public contribute to their reluctance to use the Religious Court. This attitude directly influences legal behavior, with many individuals opting for verbal divorce or family deliberation instead of following formal procedures (Jaafar et al., 2025; Okenova et al., 2025). Such behavior highlights a discrepancy between legal knowledge and actual legal compliance (Abreu-Afonso et al., 2022; Kurniawansyah et al., 2021).

Field findings also show several key factors contributing to the high number of divorces outside the Religious Court. Cultural factors are among the strongest influences, as some community members trust customary mechanisms as legitimate and honorable options. A traditional leader commented, *“Since long ago, family issues were resolved in the rumah gadang, not in court (informant).”* Economic considerations also play an important role, particularly related to transportation costs, administrative expenses, and the time required to attend multiple court hearings. In addition, educational background affects the community’s ability to understand legal aspects of divorce. In some areas, access to legal information and services is still limited, reinforcing the tendency to rely on informal mechanisms (Fernando et al., 2022; Nurwahidin et al., 2019).

Divorce practices outside the Religious Court create not only procedural challenges but also broader social and legal implications. Without an official court decision, the marital status cannot be legally annulled, preventing individuals from entering a subsequent marriage lawfully (Jamaluddin et al., 2018; Ramadhan, 2020). Furthermore, the rights of the wife and children such as financial support, custody, and legal protection cannot be claimed or enforced without a valid legal foundation. One divorced woman shared, *“Because we had no official divorce papers, I couldn’t request financial support. They said we were still legally married (informant).”* This situation may lead to social vulnerability for women and children and contribute to legal uncertainty that can trigger further conflict within the community.

Overall, the findings indicate that limited legal awareness is not solely due to lack of knowledge but is shaped by the interaction of cultural, economic, educational, and legal-service factors. This aligns with Soerjono Soekanto’s view that legal awareness can improve when knowledge and understanding are strengthened, legal attitudes are shaped through continuous education, and legal behavior is encouraged through accessible and fair judicial services. Therefore, enhancing community legal awareness regarding divorce procedures requires a holistic approach involving legal education, community-based legal outreach, and improvements in the services provided by the Religious Court to better align with the social conditions of West Sumatra’s communities.

CONCLUSION

This study finds that the level of legal awareness among communities regarding divorce procedures through the Religious Court remains low. Although basic knowledge of state-regulated divorce exists, community understanding of the legal stages and their implications is still limited. Cultural norms and local traditions strongly influence community behaviour, leading many individuals to opt for non-judicial divorce practices. Economic barriers, administrative requirements, and perceptions of lengthy procedures also contribute to the preference for informal mechanisms. These conditions create significant social and legal consequences, including the absence of legal protection for spouses and children, unclear marital

status, and restricted access to post-divorce rights. Strengthening community-based legal education and increasing collaboration between religious institutions, local authorities, and the Religious Court are essential to improving compliance with formal legal procedures.

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