

Bargaining Equal Spousal Roles in Marital Life: The Phenomenon of Wife-Petitioned Divorce Among Middle-Class Muslims in Yogyakarta

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Abstract

This study aims to highlight the phenomenon of divorce petitioned by wives among middle-class Muslim communities in Yogyakarta and its relevance to their attempt to negotiate their roles in marriage. This is qualitative research based on data collected through observation, interviews, and documentation. Deploying a sociological approach, this study reveals that while for the majority of cases, economic problems constituted the main ground for divorce, for this case, the main grounds of divorce presented by women include failure of the spouse to express self-esteem, dissatisfaction with gender role, and differences in principles in making decisions which culminate to what we call as 'soft dispute'. The study also argues that among the middle class of society, there has been high awareness of gendered equal roles spread by social institutions and that it has, to some extent, become a threat to legal thought of male masculinity within spouses, who are both highly educated, as both spouses have not evenly held the awareness. This study argues that the 'soft dispute' brought from such conditions as mentioned above is legally considered by judges to have met or been in line with the legal ground of 'protracted disputes' specified by the laws.

Abstrak

Penelitian ini bertujuan untuk menyoroti fenomena gugatan cerai yang diajukan oleh istri di kalangan komunitas Muslim kelas menengah di Yogyakarta dan relevansinya dengan upaya dalam menegosiasikan peran mereka dalam perkawinan. Penelitian kualitatif ini mengumpulkan data melalui observasi, wawancara, dan dokumentasi. Dengan pendekatan sosiologis, studi ini mengungkapkan bahwa secara mayoritas kasus perceraian disebabkan oleh persoalan ekonomi, yang sering menjadi alasan utama. Dalam konteks perceraian ini, alasan utama perceraian yang diajukan oleh perempuan adalah kegagalan pasangan untuk mengekspresikan harga atau kehormatan diri, ketidakpuasan terhadap keseimbangan peran gender, dan perbedaan prinsip dalam mengambil keputusan, yang kesemuanya disebut sebagai 'soft dispute'. Penelitian ini juga berargumen bahwa di kalangan masyarakat kelas menengah yang keduanya berpendidikan tinggi telah terjadi kesadaran yang tinggi tentang peran kesetaraan gender yang disebarluaskan oleh institusi sosial dan bahkan dalam batas tertentu telah menjadi ancaman terhadap pemikiran hukum tentang maskulinitas laki-laki pada pasangan. Hal ini karena kesadaran gender tersebut tidak dimiliki secara merata oleh kedua pasangan. Penelitian ini kemudian menegaskan bahwa 'soft dispute' yang ditimbulkan dari kondisi tersebut dianggap secara hukum oleh hakim telah memenuhi atau relevan dengan ketentuan hukum sebagai alasan perceraian, yaitu 'perselisihan yang berlarut-larut'.

Keyword:

divorce; Muslim middle-class; gender; education; economy

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Introduction

Divorce is one of the legal mechanisms that dissolves marriage. Others include death and judicial decisions. According to classical legal texts, divorce is an act that is allowed in religion but at the same time is hated by Allah (Asqalānī, n.d., Kurdī, 2007, Saputra & Busyro 2018, Sijistānī, 1993). Although divorce is something that God does not desire, scholars have different responses in the context of divorce. The Sunnis seem to make it easy for divorce to occur, such as divorce without cause, divorce without intention, and divorce due to force. Even some Mālikiyah scholars consider divorce that was intended to be legally valid, although it has not been pronounced. This is different from the Shī'ah, which tends to make divorce difficult by requiring two witnesses. This opinion is used in the legislation in Muslim countries that requires divorce in front of the court with two witnesses (Trigiyatno, 2020).

Scholars viewed divorce as the final exit in dealing with the problems of families with disharmony (Bello, 2009). Following classical Islamic law, divorce initiated by the woman is much more restrictive than that initiated by the man. Divorce petitioned by the man, unlike that petitioned by the woman, does not require the other party's consent and does not necessarily include financial compensation (Fortier, 2012). There are various ways to divorce in Islamic law, either automatically or on the petition of the husband, the wife, or a judge. According to classical legal thought, the right to divorce is in the hands of the husband and not the wife. However, it does not mean that the woman has no ability or chance to put an end to the marriage if she is unhappy, hurt, or unsatisfied. The husbands, who convince their wives that only their absolute right to divorce is in their Islam, are misled and oppressed (Bello, 2009).

Meanwhile, Indonesia has several regulations dealing with divorce issues that are relevant to the abovementioned principles. In Law No. 1 of 1974 on Marriage and Government Regulation No. 9 of 1975, as the implementation of Law No. 1 of 1974 (Article 39, Point 2), it is stated that divorce must be followed by sufficient reasons that lead both the husband and the wife not to be able to live in harmony. This shows the equal position between husband and wife. The decision to divorce is not only based on the husband's desire but also comes from the wife's, as has been administered in Article 114 of the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) (Fikri et al., 2019, Hasyim, 2015).

Several countries, such as Egypt and Mauritania, have also instituted significant legislative reforms related to marriage and divorce (Fortier, 2012; Shaham, 1994). In Egypt, modernist statutory legislation (1920 and 1929) improved the legal status of women by granting them judicial divorce for several reasons. The judges could adapt their decisions to the changing social environment and addressed the demands of best practices for women (Shaham, 1994). In Mauritania, the government produced the first personal status code in 2001 to recognize women's right to divorce (Act. 92), or *khulū'* (Fortier, 2012).

Many view that the relationship between men and women must be balanced and equal (Cholil, 2017, Cholil & Sudirman, 2019, Kodir, 2018, Nursyam, 2012, Qibtiyah, 2009). However, as the problems married couples face are diverse and different, the balance and equality of the spousal relationship do not always go well. Divorce is often inevitable, with a serious impact on many relevant parties.

Researchers such as Bohmer and Lebow, Handalusia, Nurlaelawati, Premchand & Gavin, Rahimi et al., Rahimi, and Tuttle & Davis looked at the dynamics of divorce in various countries and regions in the world with different social and religious cultural backgrounds (Bohmer & Lebow, 1978, Handalusia et al., 2018, Nurlaelawati, 2013, Premchand & Gavin, 2011, Rahimi et al., 2012, Tuttle & Davis, 2015). In general, Tuttle studied religious relations, dishonesty, and divorce in British society. A good understanding of religion can reduce infidelity, which can lead to divorce. According to him, religiosity can reduce the level of

infidelity between partners. Thus, individuals who have good religiosity tend to be happy in their marriages and have a low perception of divorce (Tuttle & Davis, 2015).

Rahimi studied and opined that divorce means the disconnection between a man's and a woman's marriage, which results in no more legal ties in the family structure (Rahimi et al.). Furthermore, Rahimi explained that each spouse's reasons for divorce differ. Self-esteem, feeling hurt both physically and psychologically, and an imbalance of power in the household are some of the grounds for divorce. She also stressed that the grounds for divorce presented by men and women are different (Rahimi et al., 2012).

Studying Muslim women in divorce litigation, including their strategy in winning cases, Nurlaelawati reveals that there are two main grounds for divorce petitioned by wives. The first is to be legalized by the courts, and the others stem from cultural norms that strengthen their intention to petition for divorce. She also reveals the different legal attitudes of spouses toward divorce and points out that most men consider that they have absolute authority based on their understanding of religious texts. Unlike men, many women eventually come to court, and to win the cases, they influence the judges by presenting grounds for divorce and deploying strategies. Among these strategies are conveying the negative side of their husbands and assuring the judges that they would forego the bad and good effects of divorce and that they could bear economic and social burdens (Nurlaelawati, 2013). Different from Nurlaelawati and Rahimi, Handalusia found that there is a clash between traditional family structures, primarily if the man serves as a househusband, and that demographic change, age, and religiosity show predictive validities (Handalusia et al., 2018).

The increase in divorce cases occurs with continuously changing patterns. Bohmer and Lebow, for example, found several legal changes and the behavior of divorce worldwide. According to them, modernization impacts divorce patterns, the socio-economic status of women, religion, politics, and even the regulations of a country. Bohmer and Lebow described factors that influenced the increase in divorce rates. According to them, the status of women economically constitutes an essential factor (Bohmer & Lebow, 1978).

Unlike Bohmer and Lebow, Dommaraju and Jones, who researched Asian countries, found that women with higher education and active involvement in public activities lower divorce trends and tend to give more attention to marriage (Dommaraju & Jones, 2011). The study sees divorce as a result of the changing of norms, the increase of individualism, and the freedom of expression in the public, a finding which is also offered by Voydanoff (Voydanoff, 1990)

Method

This study aims to analyze the practice and paradigm of divorce within the middle-class Muslim community. It observes and seeks legal grounds and factors that bring couples, wives, in particular, to ask for a divorce. This research is descriptive qualitative research and deploys a sociological approach to describe the phenomenon of divorce, the factors driving divorce, and the legal grounds highlighted by the female petitioner of divorce within the middle-class Muslim community. It seeks to observe and understand how women of the middle class negotiate their roles within marital life. This study also seeks to examine their understanding of the legal rules of divorce in general and of divorce petitioned by wives in particular. It also discusses how judges interpret and respond to women's attitudes toward marriage and divorce from their legal perspectives.

The data were gained from direct observation in the Yogyakarta City Religious Court, interviews with its judges, and document collection. The Religious Court of Yogyakarta City, classified as Court 1 A, is a court that has relatively different dynamics cases compared to other

regions in the Special Region of Yogyakarta. As for the interview, in-depth semi-structured interviews are conducted with four judges (three female and one male judges), two lawyers (females), and ten litigants (seven females, three males), selected purposively with the characteristics needed in the study and to answer the research question. The data gathered from interviews are strengthened by analyzing judges' relevant decisions, and 40 decisions are examined.

Middle-class Muslims are the subject characteristics of this study. They had at least D3 and/or high-income education (at least based on the Regional Minimum Salary). In addition, the researchers documented secondary data in the form of divorce decisions, with a total of 40 decisions.

Rules of Divorce in Indonesia: Legal Mechanism and Grounds

The issue of divorce has been regulated in detail and firmly in Law No. 1 of 1974 and Law No. 9 of 1975. Besides, the issue of divorce is well regulated in the Compilation of Islamic Law (KHI), with the exact implementation of the regulation as Law No.1 of 1974. KHI and Law No. 1 of 1974 stated that marriage ends with several factors: death, divorce, and court decision. A breakup of a marriage caused by a divorce can only be valid through a court decision. In the regulation, there are two procedures for divorce, namely divorce by *ṭalāq* and divorce by wife's petition. Divorce by *ṭalāq* is a divorce application that a husband declares to his wife in front of the court. Divorce by *ṭalāq* is a term specifically used in the Religious Courts to distinguish divorce claimed by a wife. The divorce petition by a wife is submitted formally to the Court (Azizah, 2012: 416, Hadikusuma, 1990: 171, Government Regulation No. 9 of 1975).

The effect of the Marriage Law No. 1 of 1974 on Indonesian Islamic law is a matter of dispute. Many Muslims have appreciated Article 2 (1) of the Law that a marriage is valid when it is performed based on the religious law of the parties, marking the first formal recognition of Islamic rules and the end of the hated reception theory. This has fundamentally changed marriage rules for Muslims, including marriage registration and court approval requirements for divorce and polygamy (Cammack, 1997, Idri, 2009, Keener, 2002). The modernization of the Islamic judiciary following the implementation of the Marriage Act was initially carried out as a matter of executive-branch policy without formal legislative authorization. In 1989, the Religious Judicature Act was formalized and elevated the Islamic court to a status essentially equal to the state court or general court (Cammack & Feener, 2012).

Law No.1 of 1974 tends to complicate and limit a divorce. A husband who wants to divorce his wife must also submit his case to the court desk with evidence and legal reasons. In fact, according to the regulation, a husband and wife who wish to divorce can only submit a petition to the court. Even though the husband has the right to declare divorce, it can only be valid and legal with the court's approval and conducted in front of the judges. This is as stipulated in Article 39 (1) of Law No.1 of 1974 and Article 115 of KHI. Furthermore, Article 116 of the KHI states that the grounds of divorce include: (1) one party commits adultery or drunkenness, gambling and others that are uneasy to cure; (2) one party leaves the other for two consecutive years without any information or permission and a valid reason or because of other matters beyond their means; (3) one party is sentenced by imprisonment to five years or a more severe sentence after marriage; (4) one party commits atrocities or severe abuse, endangering the other party; (5) one party suffers from a disability or illness that resulted in the inability to carry out obligations as a wife or husband; (5) continuous conflicts or disputes between the husband and wife, without the possibility to reunite as a whole family.

Interestingly, although the state has restricted the reasons for divorce, it tends to increase in urban Muslim society. Such an increase also generally occurs in various other urban areas such as Surabaya, Central Jakarta, Bandung, and the Special Region of Yogyakarta.

Divorce among Middle-Class Muslims in Yogyakarta *Middle-Class Muslims: Who Are They?*

The development of middle-class Muslims in Indonesia has increased along with the nation's development. There are at least four reasons why the middle class is a significant force. First is because the middle class has a close relationship with democracy. If democracy has interrelated relationships with development, this also means that it influences the middle class. Second, middle-class Muslims generate entrepreneurs who create jobs that trigger productivity in society. Third, the middle class creates the accumulated human resources value that is significant for economic growth. Fourth, the middle class demands the production of high-quality goods. This encourages productivity and production scale with sufficient capacity and resources. In the end, this contributes to more dynamic economic growth (Nizar, 2015: 171).

Apart from their contribution to economic growth, the middle class also plays a role in politics. As explained, the middle class generally supports the democratization process in Indonesia. This is in line with the fact that the solid middle class contributes to the excellent democracy mechanism (Rahardjo, 1999).

Economically, the Asian Development Bank composes the categorization of middle-class expenditure into three groups: lower middle class with USD 2-4 daily expenditure; middle-middle class with USD 4-10 daily expenditure; upper-middle class with USD 10-12 daily expenditure. A striking problem in middle-class life is that it leads to improved quality of life and the fulfillment of social needs (Jati, 2015).

In the context of Yogyakarta city, the middle class is increasing. The unstoppable wave of modernization has led to an increasing number of middle-class groups in Yogyakarta. This increase can be seen from the development of religious symbols in various places in Yogyakarta. Among the examples are Islamic-oriented lifestyles, including clothing and consumerism (Sanaky et al., 2018).

The middle-class Muslims in Yogyakarta city continue to experience changes in response to modernity. This acceptance generally influences the system of thinking, life, and even religion. In the economic context, for example, modern society pays special attention to the production and consumption of goods and services where money is the primary factor. In its development, modernity evolved in a vast space, including religion, social life and culture (Rofhani, 2013). In the context of religion, middle-class Muslims respond to modernism with a new religious model, which is later referred to as urban Sufism (Sanaky et al., 2018).

In general, the majority of Yogyakarta city people are Muslims, with 82.92 percent of the population (BPS Kota Yogyakarta, 2018). In the context of social education, in 2016, the number of workers with an undergraduate degree (S1 and D4) amounted to 45.21 percent. Meanwhile, those with graduate degree education (S2) experienced an increase of 5.74 percent to 6.12 percent (BPS Kota Yogyakarta, 2017). In 2017, that number increased from 6.21 percent to 6.39 percent (BPS Kota Yogyakarta, 2018). These data signify an increase in the middle class, one of which is marked by the increase in the education level in the community.

The strengthening of the economy also marked an increase in the middle-class Muslim community in Yogyakarta. Economic activities of the Muslim community often use religious symbols. This can be found easily in Yogyakarta city, such as Islamic headscarves, halal

fashion and the food business, which urban Muslims mostly promote. Jati mentions this phenomenon as the bourgeois, as they usually try to exclude themselves (Jati, 2016).

Education and the economy are the markers of the increase in the number of middle-class Muslims in Yogyakarta. This phenomenon has become instrumental in changing and developing discourses, including legal and religious discourse. The existence of a strategic middle-class Muslim is the link between the lower and upper classes, so the discourse that develops among middle-class Muslims becomes a central issue.

Divorce Trend in Yogyakarta: A General Overview

Although it has been widely studied, divorce is always interesting to discuss academically. This is because the number of divorce applications submitted to court is increasing. In general, divorce cases in the religious courts throughout Indonesia from 2009 to 2015 showed an increase. This is demonstrated in the following table: (<https://Badilag.Mahkamahagung.go.Id/>, n.d.)

No.	Year	Amount of Suit Divorce	Amount of <i>Talaq</i> Divorce
1.	2009	171,477	86,592
2.	2010	190,280	94,099
3.	2011	215,368	99,599
4.	2012	215,707	98,028
5.	2013	231,478	100,772
6.	2014	254,951	106,608
7.	2015	241,202	96,516

This increase also occurred in Yogyakarta City, although quantitatively, the increase is not as high as in other areas of the Special Region of Yogyakarta (DIY). Nevertheless, the complexity of the problems that occur in the city of Yogyakarta is significant, as it is more diverse and complicated than in other DIY areas. The phenomenon of divorce in the city of Yogyakarta in the past two years, from 2017 to 2018, can be seen as follows: (Observation, 2019)

No.	Year	<i>Talaq</i> Divorce	Suit Divorce	Total
1.	2017	144	513	657
2.	2018	159	527	686

Yogyakarta City Court is one of the courts in the Special Region of Yogyakarta. There are four other areas in the region: Bantul, Sleman, Wonosari, and Kulonprogo. The Yogyakarta City Religious Court has a jurisdiction consisting of 14 sub-districts covering 45 sub-districts. Demographically, the area of the city is not as large as other areas, so in total, it is not as many as other regions, such as Sleman, Wonosari, and Bantul.

The case in Yogyakarta City is relatively unique and complex, and its divorce cases are even more complex than in other regions. The cases of divorce here often involved a number of relevant issues, including the demand for financial compensation during the *'iddah* period

and child maintenance from divorced wives. In Wonosari and Bantul, for example, women tend to surrender and "accept" and do not usually include such demands. This indicates that there has been a shift in the value of society within this different context. Furthermore, the people of the city of Yogyakarta have a high awareness of the importance of maintaining their rights. They tend to fight for such rights and maintain their pride, which is again different from a more traditional society that often solves problems through discussion.

The Grounds for Divorce among Middle-class Muslim Women: Legally Written and Un-Written

Before we come to the discussion of grounds for divorce among middle-class Muslim women, we will first explain what we mean by grounds here. This is to not complicate with factors that bring spouses, or women, in this context, to sue for divorce. What we mean by 'grounds' here are the conditions presented by petitioners when suing for divorce. Meanwhile, 'factor' refers to more universal issues that lead to the rise of the grounds and lead petitioners, or again women in this context, to sue for divorce. It is significant to mention that many researchers have mixed these two issues, which we understand differently.

Divorce in various countries has been increasing for many years, with women dominating the petitions. The divorce grounds also vary. However, some studies noted that infidelity, domestic violence, and alcohol or drug consumption are the dominant causes reported (Amato & Previti, 2003). In Korea, for example, the high number of divorces is motivated by lousy husbands' behavior and financial problems (Chang, 2004). In Iran, among the divorce grounds are unfulfilled wives' psychological needs, poor social skills of husbands and families, as well as personal and family difficult relationships (Khojastehmehr & Takrimi, 2009). In the context of Southeast Asian societies, urbanization becomes the primary cause of changes in the factors and backgrounds of divorce (Jones, 2023).

In Indonesia, especially East Jakarta in 2014, the grounds for divorce petitioned by both wives and husbands were dominated by socio-economic characteristics, including working wives, unemployed husbands, and family disharmony. Likewise, what happened in Aceh is that divorce often occurs resulting from early marriage, economic incompatibility, lack of offspring, and violence committed by the husband (Matondang, 2014). As for trends in Banyuwangi, the reported grounds for divorce are economic problems (37.5%), infidelity (30%), disharmony in the household due to communication problems and domestic violence (17.5%), and husbands' inability to fulfill their rights (15%) (Harjianto & Jannah, 2019).

While these studies mixed issues leading to divorce and categorized them as factors or grounds, Nurlaelawati differentiates the grounds from factors. She argues that divorce petitioned by wives was often filed due to economic grounds and continuous disputes, resulting from husbands' bad behavior, drug addiction, polygamy and extra-marital affairs committed by husbands (Nurlaelawati, 2013). Another factor leading to divorce, as noted by Suryaningrum, is the absence of children in marriage (Suryaningrum, 2019, Nurlaelawati, 2013).

This study found that divorce within middle-class Muslim society in Yogyakarta City is petitioned mainly by women with higher education and economic independence. Among the grounds are disputes motivated by the women's failure to express their self-esteem and have equal rights, as well as different principles in decision-making among spouses. With gender awareness and knowledge of their equal rights, these women reject all types of gender injustice, stereotypes, discrimination, subordination, marginalization, and gender-based violence. These conditions then culminate into what we call 'soft protracted disputes.'

Among the needs of the middle-class Muslim community in Yogyakarta City are economically fulfilled. The basic needs sufficiency will increase the level of needs (Jarvis, 2017). In the context of middle-class Muslims in Yogyakarta City, the increase in the desire for marriage is strongly mingled with the need for self-expression and self-actualization. The freedom to self-actualize through work and other social activities is necessary to meet one's self-appreciation. Problems will arise when one party is not allowed or is limited to self-actualize. This sense is apparent in the narratives of a female respondent interviewed. She mentions:

"If what I have explained and done was not believed, why should I continue this relationship? He wanted me to welcome him every time he came home. However, I also have a job, so I could not welcome him every day. He is an architect. He joined contractors to work and was rarely at home. Once he went home, he wanted to be served even though I was busy outside. If he was outside, I had to understand him, but he never wanted to understand my business. That is what I did not like. I cannot stand it if it is restrained so much" (EL, 2019).

The EL's narrative (a plaintiff) further strengthens that middle-class Muslims have relatively complex problems in family relations. The need for economic fulfillment is not a significant factor that often causes divorce, as each of the spouses generates income. Furthermore, women of this class are brave enough to sue for divorce because they are not worried about life after their divorce. Their needs in the family are to be respected and to have an opportunity to actualize themselves in social life. Again, this is different from the case in rural communities, where the economic problem becomes the main factor causing divorce and where women are vulnerable to violence (de Vaus et al., 2017).

Besides self-expression, as noted above, women's awareness of their position and equal rights in the family is another source of 'soft-protracted dispute'. It mainly happens when decisions are not taken based on the agreement between spouses, leading to possible prolonged conflicts. The basic principle of filing a divorce is 'intellectual distortion' or chaos of thinking.

Interestingly, women's awareness of their equal rights creates a 'soft protracted dispute' resulting from forced sexual relations. The 1993 Declaration of the Abolition of Violence Against Women categorizes forced sexual relations as a form of violence against women. Therefore, forced sexual relations, as a form of violence, can be proposed as a consideration for divorce, as exemplified by Decision No. 567 Pdt.G/2018/PA.Yk. The plaintiff, in her principal argument, stated that the defendant often forced her to have sexual intercourse when the plaintiff was in an unhealthy condition. It causes the plaintiff to be physically and mentally injured.

In one of the Decisions, it is argued that sexual needs must be based on the readiness of the two. The plaintiff demands that awareness of gender relations be held in a balanced manner between spouses. This case shows that the woman is aware of her position and bargaining power. She stressed that her husband should not impose his wishes without her agreement. Such an attitude is also widely demonstrated by other female litigants. The stories and familial issues in Decision No., 597/Pdt.G/2018/PA.YK illustrated how differences in marital ideas or principles constitute another ground for women to petition for a divorce. In other words, the agreement on the marital principle constitutes the primary basis within middle-class Muslim communities in building a fair and happy marriage.

The cases above showed that the definition of marriage for the middle class is not as simple as others understand it. To the middle class, marriage is not merely to unite two persons and two families but is also to unite their principles, thoughts, characters, and goals. In

achieving the goal of marriage, couples need clear instruments accordingly. In fact, scholars and sociologists argue that an unclear goal in marriage can cause a divorce. This has reminded us of the bargaining theory. Each party has a bargaining position and power in a relationship, and how couples negotiate agreements in a relationship includes the division of labor and roles.

This bargaining process is based on both parties' ability and willingness. According to this theory, divorce is also the result of an agreement (Lundberg & Pollak, 1996). The cases that happened to the three women discussed above strengthened that a 'forced' agreement can lead to divorce. Both spouses agreed to divorce because of different ways of thinking. Within this particular condition, many couples remained in a good relationship, as shown in how they appeared in court and came together to court in the same car. Others with quite serious disagreement, however, seemed to be desperate, as illustrated by the case where sexual disharmony was involved.

Triggering Factors to Legal Attitudes of Middle-Class Muslim Women

In the theory of negotiation, a family is essentially a sustainable negotiation process. Each party always negotiates with its partners to fulfill family needs and interests (Wernerfelt, 2008). The theory of negotiation in marital life plays a crucial role in middle-class Muslim society. Lundberg and Pollak stated that in the context of divorce, it was the result of an agreement from the negotiation process (Lundberg & Pollak, 1996). This was like what happened to AP and her partner. They came together to the Religious Court in one car. When the trial was over, AP took care of several matters while her husband waited for her. Then, they returned home together. This phenomenon shows how a community values divorce. In rural communities, divorce is viewed as something disgraceful, flawed, and embarrassing. This is different from the general urban people's view, especially in the City of Yogyakarta, where divorce is deemed to be normal and to be proposed in an unhappy marriage. In this context, some judges view that urban society has considered marriage relatively unsacred, and they see that divorce is no longer taboo (Rohbiati, 2019). What the judges said is, in fact, evident from the reality (Observation, 2019). While the traditional rural community still views divorce as taboo, shameful, and to be avoided as much as possible, the urban communities see divorce as something common and even, in some cases, some had experienced three times divorce (Observation, 2019).

In addition to the grounds of divorce petition among middle-class Muslim women, as has been discussed above, a number of factors have contributed to this and influenced the change in the divorce paradigm among this group. The factors include self-esteem and high career following their understanding of their rights and fair gender roles.

Education Leading to Self-Esteem and High Career

Murdock confirmed that a low level of education can lead to divorce (Murdock, 1950, pp. 199–220). He links it with the communication issue, an essential aspect of building a secure marital relationship. In his view, communication failure and negotiation will result in divorce (Wolcott & Hughes, 1999).

Voydanoff's research reveals that education and income will be able to facilitate successful marriages or reduce divorce rates. Amato and Previti even argue that the higher the education, the better the communication pattern will be (Amato & Previti, 2003).

In the context of middle-class Muslims in the City of Yogyakarta, high levels of education do not necessarily prevent them from divorce. Conversely, it can result in a high potential for divorce, particularly among spouses without an equal understanding of fair roles.

As discussed above, women have become increasingly aware of their rights and dare to voice their anxieties and bad experiences in the family, while men are backwards in this issue. One of the informants (the applicant) expressed anxiety about the behavior of his wife, who often argued. He stated that this was due to emancipation and because the defendant had higher education (AP, 2019). The statements of judges Farchanah, Emy and Ulil support this fact. Judge Farchanah stated that:

"The divorce factor can be influenced by education. Women know better, due to their formal education or knowledge, about the broader terms of their relationship. In the past, women kept silent. Nowadays, cell phones and other things help women gain information and knowledge. Divorce is now *taboo*, right? Divorce now has shifted" (Farchanah Muqaddas, 2019).

In contrast to the previous scholars' arguments, the above explanation shows that access to higher education has greatly affected the marital paradigm. It is essential to note that the education here does not only mean a formal education but also an informal one, including through technological access. Modernity that continues to develop, especially in urban areas, including the City of Yogyakarta, has changed the perspective and attitude in the family context. The presence of this modernity has also allowed people to interact more broadly, dynamically, and freely. Greater openness and access affect the formation of middle-class Muslim paradigms towards the ideal form of family relationship. At the same time, there is an encounter between the culture of modernity brought by the West and the Islamic values inherent in a Muslim. Urban Muslims try to construct themselves to find identity, one of which is by opening up to the changes that occur (Rofhani, 2013b).

Training and Advocacy: Knowledge and Awareness of Fairly Gendered Roles

As widely acknowledged, the construction of gender is different from sex. Sex is a human gender definition based on biological features, while gender inherently results from cultural and social constructions. For example, women are associated with the qualities of gentleness, maturity, and emotional behavior, while men are associated with the nature of firmness, strength, and rationality (Fatimah, 2012, Muqoyyidin, 2013, Nursyam, 2012).

In the City of Yogyakarta, several social institutions are concerned about guarding equality, humanitarian issues, and Islam. Among these institutions are Rifka Annisa, the Women's Study Center (PSW) of the State Islamic University of Sunan Kalijaga, the Center for Human Rights Studies of the Islamic University of Indonesia (PUSHAM UII) and the Center for Islamic Studies of the Islamic University of Indonesia (PSI UII). Each institution focuses on dealing with the issues of humanity, equality, and empowerment, as well as Islamic and gender discourses.

These institutions are relatively active - besides other Higher Education institutions - in spreading Islamic and humanitarian discourse and equality. One of these institutions is Rifka Annisa. Those dealing with legal cases in the Religious Court have appeared to welcome this institution. It offers information on steps to be taken in the litigation process involving women and children. WD, for example, is among the litigants who benefited from the existence of Rifka Annisa. In an interview with WD, she admitted that before her divorce, she sought help and obtained it from Rifka Annisa. WD saw that Rifka Annisa, whom she knew from the website, was helpful during her divorce proceeding (WD, 2019).

These institutions allow the broadening of perspectives on the Islamic discourse of urban Muslim women, especially those related to gender and humanity. Other related institutions are university-based, including PSW UIN Sunan Kalijaga and PSI UII Yogyakarta. They have been actively engaged in organizing activities, such as seminars and workshops on

women's roles in public and private spheres. PSI UII, in collaboration with Cordaid Netherland, published a module on gender, "*Modul Kursus Gender Jogja*", and books related to gender issues (Edi Safitri, 2019).

However, some view gender awareness as a double-edged sword. Yodanis saw a correlation between the high divorce trend and a good awareness of gender equality (Yodanis, 2005, p. 654). He posits that women with high gender awareness are in an easier position to file for divorce as they have a high bargaining position. Similar to Yodanis, Andaryuni sees gender awareness to be one of the factors that influence the increasing trend of divorce filed by women, which was also influenced by the level of education, women's economic independence, and many institutions working on women's issues (Andaryuni, 2017).

This study confirmed those findings. All the ten informants interviewed had good levels of education and economic independence. This shows the bargaining values of the family and the division of egalitarian roles within the family. This also confirms that strengthening gender understanding has significant implications for women's attitudes in their households (Nurlaelawati, 2013).

What happened to Ana, one of the respondents, illustrates this. She pointed out that she had been assured about her decision to dissolve her marriage and was not afraid of taking all the burden, except her neighborhood's gossiping, which she believed would not happen (Ana, 2019). She also asserted that she felt secure in terms of financial needs. Ana believed that she is able to bear it. Ana stated "*I have been ready for the consequence. My neighbors also did not ask me anything. I hope they did not say nonsense behind me. I am just afraid of being subject to their laugh*".

Furthermore, she said that she would forego all the consequences of her decision. Ana's statement shows a woman's independence when facing divorce. Her happiness is more important than others' judgement of her. She argued that if happiness were not found in marriage, divorce would be the best way. Ana's case shows that women have the power and confidence to file for divorce. This has confirmed Andaryuni's argument that women with gender awareness seem to be not hesitant to sue for divorce, mainly when their expectations in marriage fail. They also no longer see divorce and becoming a widow as *taboo* (Andaryuni, 2017).

It is also important to note that gender awareness is essential among women and men. It is not only about women and their struggle to access gender justice. It is not about how women are trained and familiar with their equal rights and roles but how both women and men equally understand the concept of partnership in Islam. Wadud argues that the Quran does not consider a woman a type of man or a part of man in all the verses. Men and women are two categories of human species who have the same potential and opportunities (Wadud, 1999). Accordingly, gender awareness would not work well without the involvement of both sexes.

This study indicates that gender equality echoed by those institutions has limitedly touched male participation. This leads to bias and strong patriarchal attitudes. Some see gender awareness within women as a threat to male masculinity culture, as is expressed clearly by AP. He is resistant to the notion of gender equality and considers it to threaten the interrelation between a husband and wife.

Litigating Unequal Spousal Roles at Islamic Court and Judges' Approach

Religious Court judges, including Emy and Fachan, realize the increasing number of divorce petitions among middle-class Muslim women. Judge Emy, for example, stated that, in

the past, women were powerless when their husbands left them without financial support. Nowadays, women have more courage to fight for their rights against inequality. Furthermore, Judge Emy admitted to the changes in the divorce paradigm in middle-class Muslim society, especially in the City of Yogyakarta. To her, this may not be a positive change when viewed from the high divorce rate.

Considering the grounds for divorce presented in courts, nowadays, women often do not present the divorce grounds specified in the laws. Nonetheless, the ground of “continuous disputes” is flexible and interpretable. The judges considered some divorce grounds in the petitions met the qualification of “continuous disputes”. Above all, judges consider that the marriage is no longer wanted and the relationship has broken, even in a “soft” and “silent” manner. This shows that judges’ understanding of equal gender relations strengthens their sensitivity and capacity in dealing with gender-related cases. This is relevant to Nurlaelawati and Salim’s argument that female judges have the same competence as their male counterparts. However, at the same time, female judges have a higher sensitivity than men (Nurlaelawati & Salim, 2013).

Furthermore, to strengthen their advocacy of gender justice, the judges dig normative principles by quoting the classical Islamic legal references, such as *Fiqh al-Sunnah*, *al-Bājurī*, and *Ghāyah al-Marām lī Shaykh al-Majdī*, etc. In Decision No. 567/Pdt.G/2018/PA.Yk, a divorce involving sexual violence, the Judges quoted the classical legal maxim contained in *Ghāyah Marām lī Shaykh al-Majdī*. It is stated that if the wife’s displeasure towards her husband has peaked, the judge can grant irrevocable divorce (*ṭalāq bā’in ṣughrā*). This decision was strengthened with the principles of fiqh of “*lā ḍarara wa lā ḍirār*” (not to harm yourself or others). As in many cases, judges tended to combine religious doctrines from the Quran, Hadith, and *ijtihād* with the notions of *maṣlahah* to strengthen their gender arguments.

The above findings are also supported by Dahlan et al. (2023), mentioning the increasing gender sensitivity in Indonesia's divorce context. Efforts in women’s rights protection can be seen in the fulfillment of post-divorce maintenance rights, consisting of *‘iddah*, *mut’ah*, or *ḥaḍānah*. With their ex-officio rights, judges can grant these maintenance rights to women without being petitioned.

The more gender-sensitive paradigm among judges could potentially be influenced by the family law reform paradigm after the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (Nasution, 2022). Nasution’s study further strengthens the findings of this research, stating that judges have become more progressive, corresponding to the development of urban societies, which are more sensitive toward gender issues.

Conclusion

This study draws several conclusions. First, high education and career have contributed to the complexity of marital relationships in the middle-class society of the City of Yogyakarta. Second, there have been changes in divorce grounds petitioned by women. Apart from financial issues and continuous disputes, new grounds for divorce include the failure of women to express their self-esteem and play equal roles in the family, arising from the increasing gender awareness. These later grounds are often included in continuous disputes. Third, the increasing gender awareness, encouraged by women’s organizations such as Rifka Anisa, contributes to women’s courage to petition for divorce in court. Women’s economic independence also supports their decision.

Fourth, there have been differences in the increasing gender awareness among men and women. Men have tended to hold their masculinity bias and feel more authoritative in the family, while women have sought the need for equal role division in the family. Last, the judges in the Religious Court consider classical *fiqh* texts to interpret the legally uncategorized grounds of divorce presented by women from middle-class society in the City of Yogyakarta.

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