

Legal Protection of Minority Groups within Patriarchal Structures: The Rights of Women and Children Post-Divorce

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ABSTRACT

Divorce produces significant impacts on women and children as minority groups within patriarchal structures, particularly within Indonesia's plural legal system that integrates Islamic law, national law, and social practices. This research aims to analyze legal protection mechanisms for women and children as minority groups post-divorce in the Muslim community of Manado City, identify structural patriarchal factors that hinder the fulfillment of rights, analyze the intersectionality of oppression within the plural legal system, and evaluate the effectiveness of existing protection mechanisms. Using a descriptive qualitative approach, this empirical juridical research integrates a framework for minority studies and structural patriarchal analysis. Primary data were obtained from 106 talaq divorce cases at Manado Religious Court in 2021, focusing on 15 reconvention cases and 46 complaint cases at the UPTD for Women and Child Protection. Data collection through document study, observation, and in-depth interviews was analyzed using thematic analysis. As many as 85.8% of cases were decided in absentia without the wife's presence, reflecting systemic marginalization. Hindering factors include limited legal knowledge, economic dependency, masculinity construction that avoids responsibility, and institutional monitoring vacuums. The reconvention mechanism shows 66.7% success, but is limited by unequal accessibility. Legal protection for women and children requires systemic transformation, integrating minority rights perspectives through strengthening integrated databases, rights-based legal aid, Family Court Monitoring Units, and intersectionality-based capacity building for law enforcement.

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1. INTRODUCTION

Divorce as a global phenomenon has produced significant impacts on minority groups within social structures, particularly women and children who occupy economically and legally vulnerable positions (Das, 2016; Malik et al., 2024; Turner et al., 2024). Women generally experience a significant drop in their standard of living following divorce. For instance, in the context of gray divorce (divorce among those aged 50 and older), women saw a 45% decline in their standard of living, compared to a 21% decline for men (Lin & Brown, 2021). This pattern is consistent across various countries, where divorce negatively impacts women's equivalised household incomes more than men's (De Vaus et al., 2017). Additionally, women often face greater economic hardship due to lower labor market earnings and less frequent repartnering (Bröckel & Andreß, 2015; De Vaus et al., 2017). In the Indonesian context, this phenomenon becomes increasingly complex given the plurality of the applicable legal system, where Islamic law, national law, and customary law interact in regulating Muslim family life. The patriarchal structure rooted in society creates a power hierarchy that places women and children as subordinate groups, even within Muslim families whose rights should be guaranteed by Islamic teachings (Walby, 1990). The concept of patriarchy as a system of male dominance over women operates not only within the private family domain, but is also institutionalized within legal structures and public policy (Connell, 2020).

The intersectionality of oppression experienced by Indonesian Muslim women creates layered marginalization, where they face discrimination as women, as Muslims within a secular legal system, and as economically disadvantaged groups (K. Crenshaw, 1991). In Manado City as a region with religious and cultural diversity, this complexity becomes even more evident due to the simultaneous operation of various value systems and legal norms. Data from Manado Religious Court in 2021 show 377 divorce cases with 106 talaq divorce cases, where 91 cases (85.8%) were decided in absentia without the wife's presence, indicating weak women's access to legal justice. This phenomenon reflects how patriarchal structure operates through legal institutions, creating systemic barriers for women to defend their rights within formal legal processes.

Previous research on the protection of women's and children's rights post-divorce has been conducted from various perspectives, but still shows limitations in integrating structural patriarchal analysis. Khoiruddin Nasution (2016) analyzed child custody rights in Indonesian Islamic family law with a focus on normative sharia aspects, while Mansari and Moriyanti (2019) examined judges' sensitivity to wife maintenance protection without integrating a structural patriarchal perspective. Rufia Wahyuning Pratiwi (2020) studied the neglect of child maintenance fulfillment at Blitar Religious Court with a legal formalistic approach, and Mohammad Hifni (2017) discussed child custody rights post-divorce from a normative Islamic law perspective. Sholeh et al. (2019) conducted assistance for women's and children's rights post-divorce with a community development approach, but have not yet integrated analysis of women's and children's positions as minority groups within the patriarchal system. Although these studies provide important contributions, the majority still use legalistic-normative approaches without considering the structural power dynamics operating within family and legal institutions.

In the international context, comparative studies show that countries with plural legal systems face similar challenges in protecting vulnerable groups, but with different protection mechanisms. The experience of Brunei Darussalam with an integrated Islamic family law system demonstrates the need for firm sanctions to protect women's and children's rights, including a fine of 2000 dollars and imprisonment for husbands who

divorce their wives outside the court registration process (Ho, 2021; Pelu et al., 2024). On the other hand, the Czech Republic, as a country with the world's most secular society (Furstova et al., 2021), implements a comprehensive protection system for wives post-divorce through stringent legal mechanisms. Courts have the authority to issue preliminary measures to protect domestic violence victims while regulating child access rights (Wranová, 2023; Yasin et al., 2021), mandate maintenance payments with special protection for parties harmed by failure to pay alimony (Rabinská, 2022; Sugitanata et al., 2024), and guarantee the wife's residential rights in housing cooperatives post-marriage dissolution (Paľach, 2024; Salma et al., 2025). This system is supported by a child welfare optimization approach considering economic and social aspects (Varga, 2024), creating comprehensive protection for wives and children in the divorce process. This comparison shows that effective protection for minority groups within families requires a combination of political will, firm legal mechanisms, and comprehensive monitoring systems.

Literature review identifies several significant research gaps in studies of legal protection for women and children post-divorce, which can be seen from several dimensions. First, the scarcity of research using minority studies perspectives in analyzing the position of women and children within patriarchal structures, where previous research tends to view them as passive legal objects rather than as minority groups requiring affirmative action within the legal system. Second, the limited intersectionality analysis connecting gender identity, religion, and socioeconomic status in understanding the complexity of marginalization experienced by Indonesian Muslim women. Third, the lack of global comparative perspectives placing Indonesian experience within the context of minority group protection in other multicultural countries. Fourth, the absence of structural analysis of how patriarchy operates through formal and informal legal institutions in creating and perpetuating gender inequality within families. Fifth, the scarcity of studies on resistance mechanisms and agency developed by women in confronting patriarchal structures within the family law system.

The novelty of this research lies in integrating minority studies perspectives with structural patriarchal analysis in examining legal protection for women and children post-divorce within the context of Indonesia's multicultural society. This research positions women and children not merely as divorce victims, but as minority groups facing systemic marginalization within patriarchal structures institutionalized in Indonesia's legal system. This approach provides a new theoretical lens for understanding how gender inequality operates within Muslim family institutions, while identifying protection mechanisms sensitive to minority group needs within the context of legal pluralism.

Based on the gap analysis and novelty above, this research aims to analyze legal protection mechanisms for women and children as minority groups within patriarchal structures, particularly in the post-divorce context within the Muslim community in Manado City. Specifically, this research aims to identify structural patriarchal factors hindering the fulfillment of women's and children's rights post-divorce, analyze the intersectionality of oppression experienced by Muslim women within Indonesia's plural legal system, evaluate the effectiveness of existing legal protection mechanisms from a minority rights perspective, and formulate policy recommendations for strengthening minority group protection within families. This research provides theoretical contributions to the development of minority studies and feminist legal theory in the Indonesian context, and practically provides policy recommendations for strengthening

legal protection systems sensitive to minority group needs. In the global context, this research enriches discourse on vulnerable group protection in multicultural societies and plural legal systems, while contributing to the development of intersectional research methodology applicable to similar studies in the Southeast Asian region.

2. METHODS

2.1. Research Approach and Type

This research employs an empirical juridical approach with a descriptive qualitative perspective integrated with a minority studies framework and structural patriarchal analysis. The empirical juridical approach was chosen because this research examines legal phenomena operating within social reality, particularly how legal norms concerning the protection of women and children interact with patriarchal structures in judicial practice (Manan, 2005). Integration with minority studies enables this research to analyze the position of women and children as minority groups within family power structures (Collins, 2022), while structural patriarchal analysis provides a theoretical lens for understanding the mechanisms of domination operating within legal institutions through an intersectionality approach (K. W. Crenshaw, 2013).

The type of this research is qualitative research aimed at describing and analyzing the functioning process of the legal protection system for minority groups in the context of divorce, based on data obtained from the field as material for study to identify systemic weaknesses and formulate recommendations for improvement (Maleong, 2007). This research uses socio-legal research methodology that enables integration between normative legal analysis and complex social reality (Banakar & Travers, 2005). This research is not intended to test statistical hypotheses, but rather to deeply understand the dynamics of power and marginalization experienced by women and children in formal and informal legal processes.

2.2. Research Location and Time

The research was conducted at the Class 1A Religious Court of Manado and the Regional Technical Implementation Unit (UPTD) of the Women and Child Protection Agency of Manado City. The selection of Manado City as the research locus was based on its characteristics as a multicultural region with high religious and cultural diversity, thus providing a relevant context for analyzing minority group protection in plural society. Additionally, the availability of adequate empirical data from both institutions enables in-depth analysis of how the legal system functions in protecting women's and children's rights.

The research was conducted in stages from November 2021 to January 2022, with stages of proposal preparation, field data collection, data analysis, and research report compilation. This time period was chosen to enable access to divorce case data from 2021 that had been decided and had permanent legal force, so that its impact on the fulfillment of women's and children's rights could be analyzed.

2.3. Data Sources and Sampling Technique

The primary data of this research were obtained from decisions of talaq divorce cases at Manado Religious Court in 2021 totaling 106 cases, with special focus on 15 cases containing reconvention (counterclaims) from wives regarding maintenance claims. Of these 15 reconvention cases, 10 cases successfully executed the talaq pronouncement after the husband fulfilled the wife's claims, while 5 cases were not executed because the

husband did not fulfill his obligations. This sample selection used purposive sampling technique based on criteria: (1) talaq divorce cases with maintenance claim reconvention; (2) decisions with permanent legal force; and (3) available access for interviews with the parties involved.

In addition to court decision data, this research also uses data from the UPTD of the Women and Child Protection Agency of Manado City which recorded 46 complaint cases related to the abandonment of women and children in the household context during 2021. These data provide an overview of alternative protection mechanisms accessible to minority groups when the formal legal system cannot provide adequate protection.

Secondary data were obtained from laws and regulations, the Compilation of Islamic Law, academic literature, and comparative studies on family legal protection systems in other countries, particularly Brunei Darussalam and the Czech Republic as representations of different legal systems that nonetheless provide effective protection for vulnerable groups within families.

2.4. Data Collection Techniques

Data collection was conducted through several complementary techniques. First, document study of court decisions that became the research focus, analyzing judges' legal considerations, decision verdicts, and decision implementation in practice. Second, direct observation of trial processes at Manado Religious Court to understand the dynamics of interaction between parties, advocates, and judges in handling divorce cases involving claims for women's and children's rights.

Third, in-depth interviews with various informants, including: (1) five people who were parties in divorce cases with case numbers 126/Pdt.G/2021, 127/Pdt.G/2021, 393/Pdt.G/2021, and 408/Pdt.G/2021; (2) substitute court clerks present at trials; (3) judges of Manado Religious Court; and (4) the head of the UPTD PPA unit of Manado City. Interviews were conducted using structured interview guides compiled based on the research theoretical framework and adapted to the position of each informant.

2.5. Data Analysis Techniques

Data analysis used descriptive qualitative analysis techniques with a thematic analysis approach (Braun & Clarke, 2006) integrated with structural patriarchal analysis and minority studies frameworks. The analysis process was conducted in several stages: (1) data reduction through categorization and coding based on themes emerging from field data; (2) data presentation in the form of descriptive narratives depicting patterns of marginalization and legal protection mechanisms; (3) data triangulation between various sources to ensure the validity of findings; and (4) conclusion drawing that connects empirical findings with the research theoretical framework.

Analysis was conducted considering the intersectionality of informants' experiences as Muslim women within a multicultural society context, and identifying structural patriarchal mechanisms operating in formal and informal legal institutions. The analysis process also involved comparison with legal protection practices in other countries to identify best practices that can be adapted to the Indonesian context.

2.6. Data Validity

To ensure data validity, this research used several validation strategies. First, data source triangulation by comparing information from court decisions, interview results,

and field observations. Second, method triangulation by combining document analysis, interviews, and observation to obtain comprehensive understanding of the studied phenomenon. Third, member checking by verifying the researcher's interpretation to several key informants to ensure accurate understanding of their experiences. Fourth, peer debriefing by conducting discussions with other researchers who have expertise in family law and minority studies to obtain alternative perspectives in data interpretation.

3. RESULTS AND DISCUSSION

3.1. Structural Patriarchal Factors Hindering the Fulfillment of Women's and Children's Rights Post-Divorce

The patriarchal structure rooted in Indonesian society operates through various systemic mechanisms that create barriers to the fulfillment of women's and children's rights post-divorce. Analysis of empirical data from Manado Religious Court shows that of 106 talaq divorce cases decided in 2021, as many as 91 cases (85.8%) were decided in absentia without the wife's presence, reflecting how patriarchal structure operates in creating women's alienation from access to legal justice. This phenomenon cannot be understood merely as physical absence, but rather as a manifestation of systemic marginalization experienced by women as a minority group within patriarchal power structures.

The factor of legal knowledge and understanding constitutes the first dimension of patriarchal structure operationalization that hinders the fulfillment of women's and children's rights. The limited legal knowledge experienced by wives in talaq divorce cases cannot be separated from patriarchal social construction that places women in subordinate positions in the public realm, including the legal system (Walby, 1990). Data show that only about 10% of wives filed maintenance claims in the form of reconvention, indicating low legal awareness about their rights as a minority group within family structures. As explained by Manado Religious Court judge Rokia binti Mustaring, this condition occurs because the parties do not yet have adequate knowledge about their rights in the divorce process, particularly in talaq divorce cases where husbands are legally obligated to provide maintenance before the talaq pronouncement is executed. This ignorance is not merely an individual problem, but a product of the education and socialization system constructed by patriarchal structures to maintain masculine domination within legal institutions.

The intersectionality of gender and socioeconomic class in the context of legal knowledge further strengthens women's marginalization as a minority group. Women from economically disadvantaged classes face layered barriers in accessing legal information, not only due to economic limitations in accessing legal assistance, but also due to cultural constructions that place legal matters as a masculine domain. Patriarchal structure operates through the normalization of women's dependence on men in legal decision-making, so that when marital conflict occurs, women lack the capacity to defend their rights independently. This is reflected in the high number of in absentia decisions showing that women tend to accept unilateral decisions from husbands without mounting effective legal resistance.

The economic factor as the second dimension of patriarchal structure operationalization shows how economic control is used as an instrument of domination in gender relations. Empirical data show that husbands' economic incapacity becomes the primary reason for the non-fulfillment of wives' and children's rights post-divorce, but

structural patriarchal analysis reveals that this condition cannot be understood as merely an economic problem, but rather as a manifestation of unequal gender division of labor within patriarchal structures. The patriarchal economic system creates women's economic dependency on men through labor division that places women in the domestic realm and men in the productive realm, so that when divorce occurs, women are in highly economically vulnerable positions (Nash, 2009, 2020).

The case of Yusril Ihza Mahendra Yusuf who works as a grocery trader with irregular income between 50,000 to 200,000 rupiah per day illustrates the complexity of class and gender intersectionality within patriarchal structures. Husbands' economic incapacity not only impacts the non-fulfillment of wives' economic rights, but also strengthens patriarchal ideological justification that places family economic responsibility entirely on men, so that when men fail to fulfill that role, women and children become victims of patriarchal structure's systemic failure. In this context, women face a structural dilemma: on one hand, they are deprived of access to independent economic resources by patriarchal structures, on the other hand, they must depend on men's economic capacity which is often limited in macroeconomic crisis conditions.

The third dimension of patriarchal structure operationalization is the factor of good faith and responsibility which shows how masculinity construction within the patriarchal system creates mechanisms for avoiding family responsibility. Data show that in talaq divorce cases with reconvention, there are 5 out of 15 cases where husbands did not execute the talaq pronouncement after the court decided the wife's claims must be fulfilled, indicating the use of legal authority as an instrument of manipulation in gender relations. The case of Faisal Yusuf bin Salahudin Daeng S. Taba who avoided trial when faced with maintenance claims worth 47 million rupiah shows how men use their patriarchal privilege to avoid legal accountability to their families. Masculinity construction within patriarchal structures provides legitimacy for men to use their authority and mobility as tools to avoid responsibility, while women are trapped in structural dependency that makes it difficult for them to enforce the fulfillment of their rights.

This responsibility avoidance mechanism is reinforced by the fourth dimension, namely the institutional factor in the form of absence of a monitoring institution for the implementation of talaq pronouncement obligations. This institutional vacuum is not coincidental, but rather a product of legal system design that is not sensitive to the protection needs of minority groups within patriarchal structures. The absence of firm sanctions for husbands who do not execute talaq pronouncement after court decisions reflects how patriarchal structure is institutionalized within the legal system, where men's interests are implicitly protected through legal loopholes that enable obligation avoidance. This contrasts with legal systems in countries that have integrated minority group protection perspectives, such as Brunei Darussalam which imposes criminal sanctions in the form of 2000 dollar fines and imprisonment for husbands who divorce their wives outside legally valid procedures.

The intersectionality of these structural patriarchal factors creates a systemic marginalization cycle for women and children as minority groups within families. Limited legal knowledge, economic dependency, masculinity construction that avoids responsibility, and institutional vacuum mutually reinforce to maintain patriarchal dominance within family institutions. Women experiencing divorce not only lose marital status, but also face structural poverty, social isolation, and legal deprivation that places

them in positions as minorities within minorities. Children from marriages ending in divorce become layered victims of patriarchal structures, not only losing economic rights in the form of maintenance, but also experiencing social instability with long-term impacts on their development.

This analysis shows that the fulfillment of women's and children's rights post-divorce cannot be achieved through legalistic approaches alone, but requires structural transformation that anticipates and addresses the operationalization of the patriarchal system in various dimensions of social life. Patriarchal structure operates not only through individual male domination over women, but through complex institutional networks that create and perpetuate gender inequality in access to economic, legal, and social resources.

3.2. Intersectionality of Oppression of Muslim Women within Indonesia's Plural Legal System

Indonesian Muslim women face layered marginalization produced from the intersection of gender identity, religion, and socioeconomic status within the context of a complex plural legal system. Analysis of the divorce phenomenon at Manado Religious Court reveals how Muslim women experience oppression that cannot be understood through a single perspective of gender or religion alone, but rather through an understanding of intersectionality that demonstrates the complexity of minority experiences within layered power structures (K. Crenshaw, 1991). Empirical data show that 91 out of 106 talaq divorce cases were decided in absentia without the wife's presence, reflecting not only gender marginalization, but also alienation produced from Muslim women's position as legal subjects trapped in tensionality between Islamic law, national law, and patriarchal social practices.

The first dimension of oppression intersectionality is visible in gender marginalization exacerbated by patriarchal-biased interpretations of Islamic law. In the context of talaq divorce cases, women face a structural paradox where Islamic law normatively provides protection through obligations of iddah maintenance, mut'ah, and hadanah, but its implementation is hindered by interpretations and practices constructed by masculine domination within religious institutions. Cases such as case number 126/Pdt.G/2021 where the wife claimed mut'ah of 75 million rupiah, past maintenance of 64.8 million rupiah, and iddah maintenance of 5.4 million rupiah demonstrate women's legal awareness about their rights based on sharia, but its implementation depends on the good faith of husbands who structurally occupy dominant positions. The intersection of gender and religion in this case creates situations where Muslim women must struggle for their rights not only against general patriarchal structures, but also against masculine-biased religious interpretations that normalize women's subordination in the name of religion (Hidayah, 2014; Shah, 2018).

The complexity of intersectionality becomes more visible in the second dimension, namely the tensionality between Islamic law as material law and national law as formal law within Indonesia's judicial system. Muslim women experience unique legal alienation because they must navigate a plural legal system that often produces contradictions in protecting their rights. While the Compilation of Islamic Law (KHI) in article 149 provides guarantees for wives' rights post-divorce, its implementation in judicial practice is often constrained by national legal procedures that are not sensitive to the specific needs of Muslim women as minority groups within the legal system. The phenomenon of high in absentia decisions reflects how formal legal procedures fail to accommodate the social

reality of Muslim women who face structural barriers to accessing the judicial system, whether due to limited legal knowledge, economic limitations, or cultural constructions that normalize women's dependence on men's decisions.

The intersectionality of socioeconomic class and gender in the context of Muslim women demonstrates the third dimension of layered oppression faced by this minority group. Data show that the majority of women who become respondents in talaq divorce cases come from economically disadvantaged classes, which not only limits their access to quality legal assistance, but also strengthens their economic dependency on husbands. The intersection of poverty and gender creates situations where Muslim women face difficult choices: accepting divorce without legal struggle due to resource limitations, or struggling through the legal system with risks of facing greater economic burdens. Cases such as those experienced by wives in case number 127/Pdt.G/2021 who did not appear at trial illustrate how the intersection of poverty, gender, and religion creates multiple disadvantages that force women to accept marginalization as a survival strategy.

The fourth dimension of oppression intersectionality is visible in Muslim women's experience as minorities within majority in the context of Manado City's multicultural society. As Muslims in a region with high religious diversity, Muslim women face double marginalization: as women within Islamic patriarchal structures and as Muslims in the broader social context where they must maintain religious identity while facing gender discrimination. Data from the UPTD of the Women and Child Protection Agency of Manado City which recorded 46 complaint cases related to the abandonment of women and children show that Muslim women often face additional barriers in accessing protection services due to the intersection of religious and gender identities that requires approaches sensitive to religious values while still ensuring protection of their fundamental rights as women and human beings.

Table 1. Distribution of Divorce Cases at Manado Religious Court in 2021

Month	Talaq Divorce	Contested Divorce	Total	Talaq Divorce Percentage (%)
January	2	9	11	18,2
February	17	16	33	51,5
March	8	34	42	19,0
April	11	24	35	31,4
May	4	7	11	36,4
June	7	29	36	19,4
July	13	17	30	43,3
August	4	19	23	17,4
September	11	31	42	26,2
October	6	21	27	22,2
November	12	31	43	27,9
December	11	33	44	25,0
Total	106	271	377	28,1

Source: Data from Class 1A Religious Court of Manado, 2021

The distribution data of divorce cases at Manado Religious Court in 2021 (Table 1) reveals an intersectionality paradox experienced by Muslim women within patriarchal structures. Of a total of 377 divorce cases decided, 271 cases (71.9%) were contested divorces filed by wives, while only 106 cases (28.1%) were talaq divorces filed by husbands. This dominance of contested divorce demonstrates a complex phenomenon from a minority studies perspective, where Muslim women as minority groups within patriarchal structures develop agency to exit marginalization situations through formal legal instruments. This confirms arguments about women's resistance to structural oppression, despite facing layered barriers from the intersection of gender identity, religion, and socioeconomic class.

Monthly distribution patterns show significant fluctuations, with the highest cases occurring in December (44 cases) and lowest in January and May (11 cases). The proportion of talaq divorce to total cases also varies significantly across months, with the highest percentage in February (51.5%) and lowest in August (17.4%). This variability indicates that contextual factors such as family economic dynamics, work cycles, and socio-cultural momentum influence divorce filing decisions. In the context of intersectionality, this temporal variability shows that marginalization experienced by Muslim women is not static, but dynamic and influenced by changing socioeconomic conditions throughout the year. The consistently high proportion of contested divorce in almost all months confirms that Muslim women do not passively accept household injustice, but actively use legal channels as empowerment strategies despite the legal system itself not being fully responsive to their needs as minority groups.

Intersectionality analysis also reveals how Muslim women develop agency and resistance through utilizing gaps in the plural legal system. Data show that 15 out of 106 talaq divorce cases involved reconvention or counterclaims from wives, indicating women's ability to use available legal instruments to defend their rights. However, the success of this strategy highly depends on the intersection of factors such as access to legal knowledge, economic support for case costs, and ability to navigate plural legal system complexity. Cases such as case number 393/Pdt.G/2021 where the wife successfully obtained child custody determination and maintenance claims show the empowerment potential of Muslim women through the legal system, but also reveal that such success requires a combination of economic resources, legal knowledge, and social support not available to all Muslim women.

The intersectionality of Muslim women's oppression is also reflected in children's experiences as minority groups facing layered marginalization due to parental gender identity, religion, and family socioeconomic status. Children from divorced Muslim families face dual risks: economic deprivation due to unfulfilled father's maintenance obligations and social instability due to identity conflicts within the plural legal system. Data show that in 5 out of 15 reconvention cases, talaq pronouncement was not executed because husbands did not fulfill child maintenance obligations, creating liminal situations where children are trapped in unclear legal status between families that are still legally valid but have been factually severed.

The complexity of intersectionality within Indonesia's plural legal system demonstrates the need for holistic approaches in understanding Muslim women's experiences as minority groups. Their marginalization experience cannot be reduced to gender discrimination alone or religious issues alone, but must be understood as the result of complex interactions between patriarchal structures, plural legal systems, social class hierarchies, and multicultural dynamics in Indonesian society. Comparison with

Muslim women's experiences in other countries such as Brunei Darussalam with a more integrated Islamic legal system or European countries with secular systems shows that Muslim women's oppression intersectionality has specific characteristics related to the social, political, and legal contexts in which they exist (Ahmad et al., 2024; Elver, 2012; Nurein & Iqbal, 2021).

This intersectionality analysis reveals that effective protection for Muslim women as minority groups requires approaches that anticipate and address multiple forms of oppression they face. Legal interventions focusing only on gender dimensions without considering intersections with religious identity and social class will fail to address the structural roots of marginalization experienced by Muslim women within Indonesia's plural legal system.

3.3. Evaluation of Legal Protection Mechanism Effectiveness from a Minority Rights Perspective

Evaluation of the effectiveness of legal protection mechanisms for women and children as minority groups within patriarchal structures reveals significant gaps between available legal norms and implementation sensitive to vulnerable group needs. Analysis of empirical data from Manado Religious Court shows that although Indonesia has legal instruments that normatively provide protection through the Compilation of Islamic Law (KHI), the Marriage Law, and the Child Protection Law, their implementation effectiveness remains limited because they do not adopt comprehensive minority rights perspectives. Of 106 talaq divorce cases analyzed, only 15 cases (14.2%) involved wives' active efforts to defend their rights through reconvention mechanisms, indicating low accessibility and responsiveness of the legal system to minority group needs.

The reconvention mechanism as a legal protection instrument demonstrates both potential and limitations from a minority rights perspective. Data show that of 15 reconvention cases, 10 cases successfully executed the talaq pronouncement after husbands fulfilled maintenance claims, while 5 cases failed because husbands avoided obligations. This 66.7% success rate appears statistically positive, but qualitative analysis reveals that reconvention effectiveness highly depends on women's ability to access legal knowledge, economic resources for case costs, and social support to face patriarchal pressure. Case number 126/Pdt.G/2021 involving comprehensive claims worth 145.2 million rupiah shows that when women have access to adequate legal assistance, they can utilize legal instruments to obtain significant protection. However, this accessibility is unequal and tends to be limited to middle-class women who have resources to navigate legal system complexity.

Analysis of talaq pronouncement execution in talaq divorce cases involving reconvention (Table 2) reveals limited effectiveness of legal protection mechanisms from a minority rights perspective. Of 15 cases involving wives' counterclaims regarding maintenance claims, only 10 cases (66.7%) successfully executed talaq pronouncement after husbands fulfilled maintenance obligations determined by the court, while 5 cases (33.3%) failed to execute because husbands did not fulfill their obligations. This 66.7% success rate appears statistically quite high, but qualitative analysis reveals that the 33.3% failure rate reflects fundamental weaknesses in the enforcement system that enables patriarchal structure operationalization through legal loopholes. Failed execution cases are distributed throughout the year and show no particular temporal pattern,

indicating this is not a situational problem but rather a systemic problem rooted in the absence of firm sanctions for husbands who avoid responsibility.

Table 2. Status of Talaq Pronouncement Execution in Talaq Divorce Cases with Reconvention at Manado Religious Court in 2021

No	Case Number	Talaq Pronouncement Execution Status
1	21/Pdt.G/2021/PA.Mdo	Executed
2	26/Pdt.G/2021/PA.Mdo	Not Executed
3	40/Pdt.G/2021/PA.Mdo	Executed
4	94/Pdt.G/2021/PA.Mdo	Not Executed
5	117/Pdt.G/2021/PA.Mdo	Executed
6	126/Pdt.G/2021/PA.Mdo	Not Executed
7	169/Pdt.G/2021/PA.Mdo	Executed
8	172/Pdt.G/2021/PA.Mdo	Executed
9	223/Pdt.G/2021/PA.Mdo	Executed
10	244/Pdt.G/2021/PA.Mdo	Executed
11	301/Pdt.G/2021/PA.Mdo	Executed
12	319/Pdt.G/2021/PA.Mdo	Not Executed
13	368/Pdt.G/2021/PA.Mdo	Executed
14	393/Pdt.G/2021/PA.Mdo	Not Executed
15	413/Pdt.G/2021/PA.Mdo	Executed
Total 15 Cases		Executed: 10 (66,7%) Not Executed: 5 (33,3%)

Source: Data from Class 1A Religious Court of Manado, 2021

The distribution of failed execution cases shows interesting characteristics from a minority rights perspective. Case number 26/Pdt.G/2021/PA.Mdo which failed early in the year shows that enforcement weaknesses were already identified since the early period, yet no systemic improvements were made throughout the year to prevent similar failures in subsequent cases such as numbers 94, 126, 319, and 393. This confirms arguments about the absence of effective monitoring and evaluation mechanisms to ensure implementation of court decisions involving minority group protection. Comparison with international protection systems previously discussed shows that in Brunei Darussalam and the Czech Republic, similar failure rates would generate systemic intervention in the form of enforcement mechanism strengthening and imposition of firmer sanctions. The absence of systemic response to these execution failures in Indonesia reflects how patriarchal structure is institutionalized within the legal system, where men's interests are implicitly protected through enforcement weaknesses that enable obligation avoidance without proportional legal consequences. This phenomenon reinforces arguments about the need for paradigm transformation from formal-legalistic approaches toward approaches that proactively integrate minority rights perspectives in all stages of legal processes, from decision determination to execution and implementation monitoring.

Analysis of in absentia decisions reveals systemic failure in applying minority rights principles within the judicial system. As many as 91 cases (85.8%) decided without wives' presence reflect not only physical absence, but the legal system's failure to anticipate and address structural barriers faced by women as minority groups. From an

international minority rights perspective, effective judicial systems must develop affirmative action mechanisms to ensure equal access for vulnerable groups (Johnson, 2024; Mickey-Pabello & Guerra, 2025). The practice of high in absentia decisions shows that Indonesia's judicial system has not yet adopted proactive approaches to ensure women's participation in legal processes, but still relies on formal approaches that ignore social realities faced by minority groups.

Comparison with international protection systems reveals significant gaps in minority rights implementation in Indonesia. Brunei Darussalam's experience shows how strong political will can transform the family law system into effective protection instruments for vulnerable groups. The criminal sanction system in the form of 2000 dollar fines and 6 months imprisonment for husbands violating divorce procedures reflects state recognition of the need for strong deterrent effects to protect women's and children's rights. Furthermore, husbands' obligation to provide living costs, healthcare, education, and adequate housing demonstrates holistic approaches anticipating comprehensive needs of minority groups post-divorce.

The protection system in the Czech Republic provides an alternative model emphasizing strict monitoring and enforcement mechanisms. Court authority to issue preliminary measures protecting domestic violence victims while regulating child access rights, special protection for parties harmed by alimony payment failures, and guarantees of wives' residential rights in housing cooperatives demonstrate integration of minority rights perspectives in various aspects of post-divorce life. The child welfare optimization approach considering economic and social aspects reflects recognition of vulnerability intersectionality faced by children as minority groups within changing family structures.

The limitations of Indonesia's legal protection system are clearly visible in the absence of effective monitoring and enforcement mechanisms. Data show that 5 out of 15 reconvention cases failed to execute because there are no firm legal consequences for husbands avoiding obligations. This phenomenon reveals a paradox in Indonesia's legal system where court decisions that should have binding force can be ignored without proportional sanctions. From a minority rights perspective, this condition shows state failure in fulfilling its obligations to protect vulnerable groups through effective law enforcement. Comparison with Brunei and Czech legal systems shows that effective protection requires combination of comprehensive legal norms, strict monitoring mechanisms, and proportional sanction systems.

Evaluation of judges' roles in applying minority rights perspectives reveals significant variability in sensitivity to vulnerable group needs. Based on interviews with judge Rokia binti Mustaring, it was revealed that judges have ex officio authority to determine women's and children's rights even when not explicitly requested in lawsuits. However, use of this authority is not consistent and highly depends on individual judges' sensitivity to gender and minority rights issues. Supreme Court Regulation Number 3 of 2017 on Guidelines for Adjudicating Women Facing Law Cases provides progressive frameworks, but its implementation remains constrained by lack of systematic training and standardization of approaches sensitive to minority rights.

Analysis of alternative protection mechanisms through the UPTD of the Women and Child Protection Agency shows potential development of protection systems more responsive to minority group needs. Data from 46 complaint cases handled during 2021 focusing on physical violence and abandonment show that women and children have alternative protection channels outside formal judicial systems. However, this

mechanism's effectiveness is limited due to dependence on inter-agency coordination and limited authority to provide binding sanctions. Integration between formal judicial systems and alternative protection mechanisms has potential to develop more effective holistic protection models from minority rights perspectives.

Comprehensive evaluation shows that legal protection mechanism effectiveness for women and children as minority groups is still hindered by approaches not yet fully integrating minority rights perspectives. Although normative legal instruments are available, their implementation remains constrained by accessibility limitations, variability in judicial discretion application, and absence of effective monitoring mechanisms. Transformation toward effective protection systems requires paradigm shifts from formal-legalistic approaches toward proactive approaches anticipating and addressing structural barriers faced by minority groups. International comparative experience shows that effective protection requires combination of political will, comprehensive legal frameworks, capacity building for law enforcement, and continuous monitoring systems to ensure consistent and responsive implementation to vulnerable group needs in multicultural societies (Indrakumari et al., 2024; Williams, 2012).

3.4. Policy Recommendations for Strengthening Minority Group Protection within Families

Based on in-depth analysis of structural patriarchal factors, oppression intersectionality, and evaluation of legal protection mechanism effectiveness already presented, comprehensive policy recommendations are needed that integrate minority rights perspectives in Indonesia's family legal protection system. These recommendations are developed considering empirical findings from Manado Religious Court showing that 85.8% of talaq divorce cases were decided in absentia and only 66.7% of reconvention cases successfully executed, indicating the need for systemic transformation in minority group protection approaches. These policy recommendations also integrate best practices from international comparative experience, particularly from Brunei Darussalam and the Czech Republic, which have successfully developed protection systems more responsive to vulnerable group needs in divorce contexts.

The first recommendation is development of more responsive administrative mechanisms through strengthening the divorce certificate retention system as a minority rights protection instrument. Based on findings that 5 out of 15 reconvention cases failed to execute because husbands avoided obligations, transformation of divorce certificate retention mechanisms is needed from merely administrative measures to systematic affirmative action to protect women's and children's rights. This policy must be supported by developing integrated databases between Religious Courts, Religious Affairs Offices, and Population and Civil Registration Services to ensure that husbands who have not fulfilled maintenance obligations cannot access administrative services related to subsequent marriages. Policy implementation requires issuance of Supreme Court Regulations providing explicit authority to courts to retain not only divorce certificates, but also other important documents until obligations are fulfilled, and development of technology-based monitoring mechanisms to ensure continuous compliance (Henrard & Dunbar, 2009; Lazcano & Jaime, 2025; van den Braak et al., 2013).

The second dimension of policy recommendations is transformation of legal socialization programs by integrating minority rights and intersectionality perspectives in community outreach approaches. Data show that only 10% of wives filed reconvention,

indicating low legal awareness about their rights as minority groups within patriarchal structures. These policy recommendations include development of legal education curricula specifically integrating gender perspectives, minority rights, and intersectionality in materials about women's and children's rights in marriage and divorce. Socialization programs must be developed with multi-stakeholder approaches involving not only formal legal institutions such as Religious Courts and Ministry of Law and Human Rights, but also civil society organizations, progressive religious institutions, and mass media to ensure wide reach and approaches sensitive to cultural diversity. Program implementation requires development of special training modules for legal educators integrating understanding of patriarchal power dynamics, identity intersectionality, and communication techniques empowering minority groups.

The third recommendation is strengthening lawsuit and reporting mechanisms through development of integrated legal aid systems specifically designed for minority groups in family conflicts. Findings that reconvention effectiveness highly depends on access to quality legal assistance show the need for legal aid system transformation from charity-based approaches to rights-based approaches recognizing legal aid as fundamental rights of minority groups. This policy includes development of special legal aid clinics integrated with Religious Courts, UPTD PPA, and civil society organizations to provide comprehensive legal assistance from pre-trial stages to decision execution. This system must be supported by developing standard protocols for identifying early warning signs of household violence and abandonment, efficient inter-agency referral mechanisms, and case management systems enabling continuous monitoring of court decision implementation.

The fourth dimension of recommendations is development of special monitoring institutions having authority to ensure post-divorce obligation implementation by adopting institutional design models proven effective in countries with strong protection systems. Based on comparative analysis, establishment of Family Court Monitoring Units under Supreme Court coordination is needed having authority to conduct systematic monitoring of divorce decision implementation, provide administrative sanctions to parties violating obligations, and develop early intervention systems for high-risk cases. This institution must be equipped with authority to conduct asset tracing, bank account blocking, and coordination with law enforcement agencies to ensure effective enforcement. This institution's organizational structure must integrate expertise from various fields including family law, psychology, social work, and economics to provide holistic approaches in case handling.

The fifth recommendation is strengthening capacity building for law enforcement through development of comprehensive training programs on minority rights, intersectionality, and adjudication techniques sensitive to vulnerable group needs. Findings about variability in judges' use of judicial discretion show the need for approach standardization based on international minority rights principles. Training programs must include modules on unconscious bias in legal decision-making, techniques to identify and address justice access barriers for minority groups, and development of abilities to apply intersectional analysis in family cases. These training programs must also involve case simulations and peer learning sessions to ensure internalization of minority rights perspectives in law enforcement daily practice.

The sixth recommendation is development of monitoring and evaluation systems based on minority rights indicators to ensure accountability and continuous

improvement in family legal protection systems. This system must integrate data from various sources including courts, child protection agencies, civil society organizations, and academics to provide comprehensive pictures of protection system effectiveness. Developed indicators must include not only quantitative aspects such as decision execution success rates, but also qualitative aspects such as women's and children's satisfaction levels with received services, changes in community legal awareness, and long-term impacts on minority group welfare (Nagy & Szappanyos, 2024).

Implementation of these policy recommendations requires strong political will from government and continuous commitment from all related stakeholders. Comparative experience shows that effective legal protection system transformation requires incremental approaches starting from pilot projects in certain regions, systematic evaluation of implementation, and scaling up based on lessons learned. Inter-agency coordination becomes key to implementation success, given issue complexity involving various sectors and government levels. These recommendations must also be supported by adequate and sustainable budget allocation, and HR development having competence in minority rights and intersectional approaches. Ultimately, success of these policy recommendation implementations will be measured from their ability to produce systemic transformation placing minority group protection as top priority in Indonesia's family legal system, while contributing to development of legal protection models adaptable by other countries with similar multicultural society contexts.

4. CONCLUSION

This research reveals that legal protection for women and children as minority groups within patriarchal structures faces complex and layered systemic challenges. Analysis of 106 talaq divorce cases at Manado Religious Court in 2021 shows that 85.8% of cases were decided in absentia without wives' presence, reflecting structural marginalization experienced by Muslim women in accessing legal justice. Structural patriarchal factors hindering fulfillment of women's and children's rights include limited legal knowledge constructed by masculine domination in public realms, economic dependency resulting from unequal gender labor division, masculinity construction facilitating responsibility avoidance, and institutional vacuum in monitoring post-divorce obligation execution. Oppression intersectionality experienced by Indonesian Muslim women creates layered marginalization through tensionality between gender identity, religion, and socioeconomic class within complex plural legal systems. Muslim women face paradoxes where they must navigate patriarchal-biased Islamic law interpretations, national legal systems not sensitive to minority group needs, and socioeconomic realities limiting their access to legal justice.

Evaluation of legal protection mechanism effectiveness from minority rights perspectives reveals significant gaps between available legal norms and implementation responsive to vulnerable group needs. Although reconvention mechanisms show 66.7% success rates, their effectiveness highly depends on unequal accessibility and is strongly influenced by intersection of economic factors, legal knowledge, and social support. Comparison with international protection systems in Brunei Darussalam and the Czech Republic shows that effective protection requires combination of strong political will, comprehensive legal frameworks, firm enforcement mechanisms, and continuous monitoring systems. Developed policy recommendations include strengthening administrative mechanisms through integrated database systems, transformation of socialization programs with minority rights perspectives, development of integrated legal

aid based on rights-based approaches, establishment of Family Court Monitoring Units with enforcement authority, capacity building for law enforcement with intersectionality training, and development of monitoring systems based on minority rights indicators.

This research's theoretical contribution lies in integrating minority studies perspectives with structural patriarchal analysis in examining family legal protection, providing new theoretical lenses for understanding marginalization complexity experienced by women and children in Indonesia's multicultural society context. Practically, this research provides policy blueprints adaptable for developing legal protection systems more responsive to minority group needs in family conflicts. In global contexts, this research enriches discourse on oppression intersectionality in plural legal systems and provides analytical models applicable to similar studies in countries with complex multicultural society characteristics. Research findings show that transformation toward effective legal protection systems for minority groups requires paradigm shifts from formal-legalistic approaches toward holistic approaches integrating understanding of structural power dynamics, identity intersectionality, and complex needs of vulnerable groups in diverse societies.

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