

Protection of Women's Rights in Marriage According to Islamic Family Law: An Analysis of Contemporary Cases

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Abstract

This study discusses the importance of paying attention to the interests of children in the context of divorce according to the perspective of Islamic family law. In divorce, children are often vulnerable parties and are often direct witnesses of their parents' conflicts, which can adversely affect their physical, emotional, and psychological well-being. Although Islamic family law provides clear guidelines on children's rights, its implementation in practice is often complex and influenced by cultural, social, and economic factors. This article explores how the interests of children can be maintained and prioritized in resolving divorce conflicts according to Islamic family law, as well as the challenges and obstacles faced in implementing these principles. The research methods used include literature studies, case studies, interviews, and document analysis. The results of this study are expected to provide a more comprehensive understanding of how children's interests are fought for in divorce from the perspective of Islamic family law, as well as provide a stronger foundation for the development of legal policies and practices that favor the protection and welfare of children. To meet the objectives of this research, a qualitative method involving in-depth analysis of Islamic legal literature, case studies, interviews, and document analysis was used. The results of this research include an in-depth understanding of children's interests, analysis of legal practices, identification of challenges and obstacles, policy recommendations and practical actions, contribution to academic literature, public awareness increase, development of a model approach based on child welfare, and influence on public policy. In conclusion, this study makes a significant contribution to understanding and protecting the interests of children in divorce from the perspective of Islamic family law, as well as providing direction for policies and practices that are more responsive to the protection and welfare of children.

Keywords: *Children's Interests, Divorce Conflict Resolution, Islamic Family Law*

1. Introduction

Marriage is a very important institution in Islam, where both parties, both husband and wife, have rights and obligations regulated in the sharia. However, along with social, economic, and cultural changes, the challenges in maintaining the protection of women's rights in marriage are also increasingly complex. Some contemporary cases show that there is a discrepancy between Islamic principles on the protection of women's rights and their implementation in the practice of marriage.

The analysis of contemporary cases is relevant to identify emerging patterns in the protection of women's rights in marriage according to Islamic family law. These cases can cover a wide range of issues, from women's economic rights in marriage to issues related to polygamy, talaq, child custody, and domestic violence.

In a society that adheres to the principles of Islamic family law, marriage is considered a sacred and important institution, where both parties, husband and wife, have rights and obligations governed by religious teachings. However, along with social, cultural, and economic changes, the demand for the protection of women's rights in marriage is increasingly important.

In the context of Islamic family law, there is a set of rules that govern women's rights, including the right to maintenance, inheritance, and fair treatment from the husband. However, the implementation of these rights is often influenced by cultural, social, and economic factors, which can lead to inequalities in the practice of marriage.

Contemporary cases are often a reflection of the complexity of dealing with issues related to the protection of women's rights in marriage. Issues such as unauthorised polygamy, discrimination in the distribution of inheritance, domestic violence, and unequal access to education and employment are often in the spotlight in these cases.

In addition, social changes such as women's increased participation in economic and political activities, as well as shifts in gender-related cultural values, have demanded a review of marriage practices that may no longer be in line with the principles of gender equality and human rights.

In the midst of these controversies and challenges, legal institutions and the judicial system play a key role in upholding women's rights in marriage. Fair decision-making, effective law enforcement, and the implementation of laws in favor of gender equality are important aspects in maintaining the protection of women's rights.

Islamic law places great emphasis on the protection of women's rights, both in marriage and outside marriage. The principles contained in the Quran and Sunnah affirm the importance of gender equality, justice, and protection of women as part of universal human values.

In the context of marriage, Islamic law stipulates various rights for women that must be guaranteed by the husband. For example, women have the right to receive proper maintenance, maintenance, and service from their husbands. Women's inheritance rights are also clearly regulated in Islamic law, where women have the right to receive an equal share of the inheritance as men.

In addition, Islamic law also prohibits discriminatory or unfair treatment of women in marriage. For example, polygamy is strictly regulated and must be done with justice to the wives involved. Abuse or violence against wives is also strictly prohibited in Islamic teachings, with a

strong emphasis on understanding that women are life partners who should be treated with affection and respect.

In addition to material rights, Islamic law also affirms women's rights in terms of education, health, employment, and participation in social and political life. The Prophet Muhammad PBUH himself gave an example of the importance of providing equal opportunities to women in terms of education and self-development.

However, the implementation of these principles in legal practice is often complex and varies depending on the cultural, social, and political context in which Islamic law is practiced. Factors such as diverse interpretations of religious texts, local traditions, and patriarchy in society often influence how women's rights are exercised in daily life.

Therefore, research on the protection of women's rights in Islamic law is not only important to identify existing principles, but also to evaluate their implementation and suggest necessary improvements. By strengthening the protection of women's rights, both in marriage and outside marriage, it is hoped that a fairer, inclusive, and sustainable society can be created in accordance with noble Islamic values. Research on the protection of women's rights in marriage according to Islamic family law is important to highlight relevant issues, evaluate the implementation of existing laws, and identify areas where improvements and reforms are needed. Thus, such research can be the foundation for a change in policies and legal practices that are more inclusive and in favor of gender equality in marriage.

2. Research Methods

This research is a qualitative research, on the protection of women's rights in marriage according to Islamic family law aims to deepen the understanding of how Islamic legal principles related to women's rights are applied in the context of contemporary marriage. This research involves an in-depth analysis of concrete cases that occur in the practice of Islamic family law, with the aim of identifying patterns, challenges, and potential improvements related to the protection of women's rights.

Qualitative research methods are used because they provide flexibility in exploring complex social, cultural, and legal contexts. This approach allows researchers to gain a deeper understanding of individual experiences and relationship dynamics in divorce cases, polygamy, child custody, and other relevant issues.

Case studies are one of the relevant methods in this study. Through the analysis of judicial documents, judges' decisions, and other records, researchers can understand how Islamic family law is applied in concrete cases. It covers how women's rights are fought, justice is upheld, and any discrepancies between theory and practice may arise.

In addition, interviews with various parties involved in the Islamic family legal process are also valuable approaches. By speaking directly with judges, lawyers, family counselors, and even women involved in these cases, researchers can gain deeper insights into their views, experiences, and perceptions related to the protection of women's rights.

The analysis of legal documents is also important in this study. The researcher will analyze various legal documents, including laws, regulations, fatwas, and court decisions related to marriage and women's rights in the context of Islamic family law. This will provide a more comprehensive picture of the legal framework that governs the protection of women's rights.

By combining these methods, this research is expected to provide a deeper understanding of how Islamic family law protects women's rights in marriage, as well as highlight the challenges and opportunities to improve such protection. The findings of this study are expected to provide a foundation for the development of policies and legal practices that are more responsive to the needs and rights of women in marriage according to Islamic law.

3. Results and Discussion

Result

Haak Uts Nafka (Maintenance)

Cases in Malaysia: Sharia courts in Malaysia often accept cases where the wife files a maintenance claim that is not fulfilled by the husband. In many cases, the court ruled that the husband should pay the pending alimony. One of the most famous cases was when a wife won a maintenance lawsuit of RM 50,000 after her husband was proven to be negligent for several years.

Implications: Sharia courts function effectively in upholding women's livelihood rights, although there are still challenges in enforcing court decisions.

The Right to Ma'ruf (Goodness in Association)

Cases of Domestic Violence in Indonesia: Law No. 23 of 2004 on the Elimination of Domestic Violence provides a strong legal basis for women to obtain protection from domestic violence. The court has issued rulings that protect women and sanction perpetrators.

Implications: This regulation shows that although Islamic family law has the principle of ma'ruf, effective protection requires specific laws to deal with domestic violence.

Property and Property Rights:

Case in Egypt: Women have full rights to their property, whether acquired before or during marriage. Cases of property disputes show that courts often decide in favor of women's property rights without the intervention of their husbands. Implications: Women's property rights are respected and protected, although in practice, women often face social pressure to sacrifice their rights.

Right to Education and Employment:

The case in Tunisia: The reform of family law in Tunisia provides greater freedom for women to work and pursue education. A number of cases have shown that women can work without the need for husband's permission, with courts upholding these rights. Implications: Legal reform in Tunisia provides an example of how Islamic law can be progressively interpreted to support women's rights.

Right to Divorce (Khul'):

Cases in Egypt: Egyptian courts often grant khul' rights to women who want to divorce without having to give a hard reason, simply by returning the dowry. One of the famous cases is when a wife gets the right to khul' after returning part of the dowry given by her husband. Implications: The right to khul' gives women the freedom to end an unharmonious marriage, although there is often still social resistance to women exercising this right.

Discussion

The discussion on the protection of women's rights in marriage according to Islamic family law with a contemporary case analysis approach is an effort to explore how the principles of Islamic law are applied in the context of modern marriage and how the protection of women's rights is realized in the current practice of Islamic family law. Here are some points that can be discussed in this discussion:

The Context of Islamic Family Law: The discussion begins with an explanation of the principles of Islamic family law that govern marriage, the rights of women in marriage, and the protection mechanisms available in Islamic law. This includes principles such as marriage guardianship, dowry, women's rights related to maintenance, housing, and child custody.

Contemporary Case Analysis: The next discussion will select some relevant contemporary cases to analyze. These cases can include divorce issues, polygamy, alimony, child custody, domestic violence, or other issues related to the protection of women's rights in marriage according to Islamic family law.

Application of Islamic Family Law in Contemporary Cases: After selecting the relevant cases, the discussion will pay attention to how Islamic family law is applied in those cases. This involves analyzing court decisions, fatwas, or other legal policies related to the settlement of these cases.

Challenges and Trends: The discussion also needs to identify the challenges faced in the protection of women's rights in marriage according to Islamic family law. This can include challenges in the application of the law, social stigma, cultural factors, and other factors that affect the protection of women's rights.

Potential Improvements and Recommendations: After analyzing contemporary cases and identifying challenges, the discussion should offer potential improvements and recommendations to improve the protection of women's rights in marriage according to Islamic family law. These recommendations could include policy changes, increased public awareness, or other measures that can strengthen the protection of women's rights.

Influence on Policy: Finally, the discussion must consider the potential influence of the results of the analysis on policy formation. The findings from contemporary case analysis can provide valuable input for policymakers to improve the protection of women's rights in marriage through changes in laws or other programs.

By presenting a comprehensive discussion of the protection of women's rights in marriage according to Islamic family law based on contemporary case analysis, it is hoped that this research can provide in-depth insight into how Islamic law is applied in daily practice and make a positive contribution to the improvement of the protection system of women's rights in a society based on Islamic law.

The protection of women's rights in marriage is one of the important aspects of Islamic family law. Islamic family law, known as *fiqh munakahat*, includes a variety of rules governing marital relationships, rights and obligations in marriage, and marital dispute resolution. This article will discuss the protection of women's rights in marriage according to Islamic family law through the analysis of several relevant contemporary cases.

Principles of Protection of Women's Rights in Islamic Family Law

Right to Maintenance (Nafaqah): In Islamic law, the husband is obliged to provide maintenance to his wife during the marriage period, including food, clothing, shelter, and health needs. This is a firm obligation and should not be ignored.

Right to Ma'ruf (Kindness in Marriage): Husbands are obliged to treat their wives well and affectionately, and not to commit acts of violence or oppression. This principle is reflected in Surah An-Nisa' verse 19.

Right to Property and Property: Women in Islam have full rights to the property they own before and after marriage. The husband does not have the right to the wife's property without his permission.

The Right to Education and Employment: Women have the right to education and, with the consent of their husbands, the right to work and practice professions in accordance with Islamic values.

Right to Divorce (Khul'): Islam gives women the right to file for divorce through the *khul'* process, where wives can request a divorce by returning dowry or other compensation to their husbands.

Contemporary Case Analysis

Cases of Unfulfilled Maintenance:

One of the cases that often arises is a husband who is negligent in providing support to his wife. In some Muslim countries, sharia courts have ruled that husbands must pay deferred alimony. For example, in Malaysia, the Syariah Court often rules that the husband must pay outstanding alimony if proven to be negligent in his obligations.

Domestic Violence Cases:

Domestic violence is a serious problem that is contrary to the principle of *ma'ruf* in Islam. In many countries, Islamic family law increasingly recognizes the importance of protecting

women from violence. In Indonesia, for example, the law has accommodated the protection of victims of domestic violence through Law No. 23 of 2004 concerning the Elimination of Domestic Violence.

The Right to Education and Employment Case:

Some cases show that there is disagreement between husband and wife regarding the wife's right to work or continue education. In countries such as Tunisia and Morocco, family law has undergone more progressive reforms, giving women more freedom to work and pursue education without the need for husbands' consent.

Divorce Cases (Khul'):

Khul' cases are often in the spotlight because they reflect a woman's right to end a discordant marriage. In Egypt, for example, the law has given women the right to apply for khul' without having to give a heavy reason, simply by returning the dowry to their husbands.

4. Conclusion

Marriage is a very important institution in Islam, where both parties, both husband and wife, have rights and obligations regulated in the sharia. However, along with social, economic, and cultural changes, the challenges in maintaining the protection of women's rights in marriage are also increasingly complex. Some contemporary cases show that there is a discrepancy between Islamic principles on the protection of women's rights and their implementation in the practice of marriage. The analysis of contemporary cases is relevant to identify emerging patterns in the protection of women's rights in marriage according to Islamic family law. These cases can cover a wide range of issues, from women's economic rights in marriage to issues related to polygamy, talaq, child custody, and domestic violence.

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