



Feminist Perspectives on the Dominance of Lawsuit Divorce in the Religious Court of Jepara

Inna Fauziatal Ngazizah 

Universitas Islam Negeri Sunan Kudus

Email: innafauzi@uinsuku.ac.id

Wahyu Kholid Hidayatullah

Universitas Islam Negeri Sunan Kudus

Email: wahyuseluntaseluntu@gmail.com

Abstract

Divorce is a growing social phenomenon in Indonesia, particularly within the jurisdiction of Religious Courts. This study examines the dominance of lawsuit divorce (*cerai gugat*) cases in the Religious Court of Jepara during 2021-2022 from a feminist perspective. Although divorce is legally permissible in Islamic law, it remains socially undesirable due to its implications for family integrity and social stability. This research employs a socio-legal approach, combining normative legal analysis with empirical data derived from interviews, observation, and documentation. The findings indicate that lawsuit divorce significantly outnumbers talaq divorce due to economic hardship, domestic violence, abandonment, and irresponsible spousal behavior. From a feminist standpoint, the increasing number of lawsuit divorce cases reflects both women's agency in seeking justice and the persistence of structural gender inequality within marriage. This study contributes to the discourse on Islamic family law and gender justice by highlighting the intersection between legal frameworks and women's lived experiences.

Keywords: Divorce, Lawsuit Divorce, Feminism, Religious Court, Gender Justice

Introduction

Divorce has become an increasingly significant social issue in Indonesian society, reflecting a tension between legal permissibility and socio-religious values. Although divorce is allowed in Islamic law, it is normatively discouraged due to its negative consequences on family integrity, children's well-being, and broader social relations. In practice, divorce not only dissolves marital bonds but also creates long-term social and psychological impacts, indicating that it is not merely a private matter but a socio-legal phenomenon that requires deeper analysis.

In Indonesia, divorce must be conducted through formal judicial mechanisms, particularly in the Religious Courts, as regulated by Law Number 1 of 1974. However, empirical conditions show a continuous increase in divorce cases, including in Jepara Regency. Even recent data indicate that divorce cases remain high, reaching thousands of cases annually, with the majority initiated by wives. This trend highlights a discrepancy between legal expectations—where divorce is intended as a last resort—and social realities, where it becomes a frequent solution to marital conflict.

A more specific issue arises in the dominance of lawsuit divorce (*cerai gugat*), where wives file for divorce. Data from the Religious Court of Jepara show that lawsuit divorce consistently exceeds talaq divorce over several years.¹ This pattern indicates a structural shift in marital relations, where women increasingly take legal action to terminate marriage due to various underlying factors such as economic hardship, domestic violence, and lack of responsibility from husbands.

Divorce Cases in the Religious Court of Jepara (2019-2022)

No	Year	Lawsuit Divorce	Talaq Divorce	Total Cases
1	2019	1,746	492	2,238
2	2020	1,630	527	2,160
3	2021	1,576	496	2,072
4	2022	1,829	482	2,311

The table clearly shows that lawsuit divorce dominates every year, with a total of 6,781 cases during the 2019-2022 period. In 2022 alone, more than 80% of divorce cases were initiated by wives, confirming the strong prevalence of lawsuit divorce. The dominant factors behind this trend include economic problems, continuous conflict, abandonment, and domestic violence, with economic issues emerging as the most significant cause.

Previous studies have identified similar patterns. Nakamura (1989) and Turner & Helms (1995) emphasize that economic stress, domestic violence, and infidelity are primary triggers of divorce. More recent studies, such as Ramadhani and Nurwati (2021), confirm that economic instability significantly increases divorce rates in Indonesia. Meanwhile, Lubis et al. (2020) highlight that women's position in Islamic family law remains structurally vulnerable, particularly when husbands fail to fulfill their obligations. However, these studies tend to examine divorce either from a legal or socio-economic

¹ Abduh, Muhamad, and Tutik Hamidah, 'Tinjauan Mashlahah Imam Al-Ghazali Terhadap Taklik Talak Dalam Hukum Positif Indonesia', *DIKTUM: Jurnal Syariah Dan Hukum*, 19.2 (2021), 133-48

perspective without integrating feminist analysis and empirical court data simultaneously.²

This study offers novelty by combining empirical data from the Religious Court of Jepara with feminist perspectives to analyze the dominance of lawsuit divorce as a manifestation of structural gender inequality. It specifically highlights how economic neglect, domestic violence, and legal asymmetry shape women's decisions to file for divorce.³ Nevertheless, this research is limited to a specific regional context and relies primarily on qualitative analysis, which may limit broader generalization.

Therefore, this study is important to provide a deeper understanding of the relationship between law, gender, and social reality in divorce cases. By positioning lawsuit divorce as both a legal mechanism and a reflection of gender inequality, this research is expected to contribute to the development of more gender-sensitive legal policies and to address the root causes of marital conflict in Indonesian society.

Research Method

This study employs a qualitative socio-legal approach to examine the dominance of lawsuit divorce (*cerai gugat*) in the Religious Court of Jepara and its interpretation from a feminist perspective. The research combines normative legal analysis with empirical field data in order to understand how legal provisions operate within social realities. This approach is considered appropriate as the study does not merely analyze legal texts but also explores lived experiences and perspectives of relevant actors. The research was conducted at the Religious Court of Jepara, which was purposively selected due to the high number of lawsuit divorce cases and the availability of relevant empirical data. The study focuses on divorce cases during the period of 2021-2022, allowing for an in-depth examination of recent trends and patterns in marital disputes. The data used in this study consist of primary and secondary sources. Primary data were obtained through direct fieldwork, including interviews with court officials and feminist figures in Jepara, as well as observations of court-related activities. Secondary data were collected from legal documents, court decisions, official divorce statistics, and relevant academic literature. This combination of data sources enables a more comprehensive and empirically grounded analysis. Data collection was carried out using three main techniques. First, non-participant observation was conducted to understand the social and institutional context of the Religious

² Aliyah, Ida Hidayatul, Siti Komariah, and Endah Ratnawaty Chotim, 'Feminisme Indonesia Dalam Lintasan Sejarah', *TEMALI: Jurnal Pembangunan Sosial*, 1.2 (2018), 140-53 <<https://doi.org/10.15575/jt.v1i2.3296>>

³ Anjis supangat, 'Peran Kantor Urusan Agama Sangatta Utara Dalam Meminimalisir Perceraian Di Pengadilan Agama Sangatta', *Peranan Cerai Talak*, 01.01 (2023), 1-13

Court without direct involvement in ongoing activities. Second, in-depth unstructured interviews were used to capture the perspectives of informants, allowing flexibility in exploring issues related to gender, law, and divorce practices. Third, documentation analysis was employed to examine court records, case data, and institutional reports, which serve as supporting evidence for the findings.

To ensure the validity and reliability of the data, this study applies several verification techniques, including source triangulation, method triangulation, and member checking. Triangulation is used to compare data obtained from different sources and methods, while member checking is conducted to confirm the accuracy of information provided by informants. These techniques are essential in qualitative research to enhance the credibility and trustworthiness of the findings. The data were analyzed using an interactive model of qualitative analysis, which includes data reduction, data display, and conclusion drawing. Data reduction was carried out by selecting and focusing on relevant information, while data display involved organizing the data in a systematic and narrative form. Finally, conclusions were drawn through continuous verification, ensuring that the findings are supported by empirical evidence and aligned with the research objectives.

Results and Discussion

Factors Contributing to the Dominance of Lawsuit Divorce in the Religious Court of Jepara (2021-2022)

The findings of this study demonstrate a significant increase in divorce cases in Jepara Regency during 2021-2022, with lawsuit divorce (*cerai gugat*) dominating over talaq divorce. Statistical data indicate that divorce cases rose from 1,576 in 2021 to 1,829 in 2022, with the majority initiated by wives.⁴ This upward trend does not merely represent a quantitative increase but also signals a qualitative transformation in the pattern of marital relations within the community. The growing dominance of lawsuit divorce suggests that women are increasingly aware of their legal rights and are more willing to utilize formal judicial mechanisms to resolve marital disputes. This phenomenon reflects a shift from traditional patriarchal norms, where men were typically the primary actors in divorce proceedings, toward a more balanced dynamic in which women actively assert their legal agency.⁵ Moreover, this change indicates the

⁴ Abubakar, Muzakkir, 'Meningkatnya Cerai Gugat Pada Mahkamah Syar'iyah', *Kanun Jurnal Ilmu Hukum*, 22.2 (2020), 302-22 <<https://doi.org/10.24815/kanun.v22i2.16103>>

⁵ Bariah, Oyoh, M Ag, and Iwan Hermawan, 'ANALISIS PUTUSAN PENGADILAN AGAMA KARAWANG TENTANG CERAI GUGAT KARENA PELANGGARAN TAKLIK TALAK (Studi Perkara No. 0554/Pdt.G.2015/ PA.Krw)', *Journal for Islamic Studies*, 1.1 (2018), 182-95 <<https://doi.org/10.5281/zenodo.1161590>>

emergence of women as autonomous legal subjects rather than passive parties within marital relationships. The data also imply that legal institutions, particularly the Religious Court, have become more accessible and responsive to women's needs. In this context, the rise in lawsuit divorce can be interpreted as both a response to marital dissatisfaction and a form of resistance against inequality within marriage.⁶ It also highlights the increasing role of law as an instrument for negotiating personal and social conflicts in family life.⁷ Furthermore, the trend underscores the importance of examining divorce not only as a legal issue but also as a socio-cultural phenomenon shaped by changing gender relations. Therefore, the dominance of lawsuit divorce in Jepara represents a broader transformation in how marriage, gender roles, and legal rights are understood and practiced in contemporary Indonesian society.⁸

From a socio-legal perspective, the phenomenon of the dominance of lawsuit divorce (*cerai gugat*) in the Religious Court of Jepara can be comprehensively explained through Lawrence M. Friedman's theory of the legal system, which emphasizes the dynamic interaction between legal structure, legal substance, and legal culture. In this context, the Religious Court represents the legal structure that formally accommodates and processes divorce cases in accordance with Indonesian Islamic family law. Meanwhile, the substance of the law provides normative regulations governing divorce procedures, rights, and obligations of both parties. However, the most significant transformation is evident in the realm of legal culture, particularly the increasing awareness among women regarding their legal rights and their growing confidence in accessing judicial mechanisms. This shift indicates that women are no longer passive subjects within marital relationships but have become active legal agents capable of utilizing institutional frameworks to address injustice. Furthermore, this transformation reflects broader socio-cultural changes in Indonesian society, where traditional gender roles are gradually being renegotiated. The increasing reliance on legal institutions also suggests a declining tolerance toward informal or unresolved marital conflicts. In this sense, lawsuit divorce is not merely a legal action but also a manifestation of evolving gender consciousness and legal empowerment among women. Therefore, Friedman's framework effectively captures how structural access to law, combined with changing legal awareness, contributes to the rise of lawsuit divorce as a dominant trend.

⁶ Afifah, Fitria, and Delmira Syafrini, 'Faktor Penyebab Meningkatnya Cerai Gugat Pada Masa Pandemi Covid-19 Di Kecamatan Sungai Pagu Kabupaten Solok Selatan', *Jurnal Perspektif*, 4.3 (2021), 371 <<https://doi.org/10.24036/perspektif.v4i3.496>>

⁷ Becker, Gary S. 1993. *A Treatise on the Family*. Cambridge: Harvard University Press.

⁸ Cott, Nancy F. 2000. *Public Vows: A History of Marriage and the Nation*. Cambridge: Harvard University Press.

Empirical data derived from court decisions further reinforce this socio-legal analysis by providing concrete illustrations of how economic factors contribute to marital breakdown. In Case No. 2236/Pdt.G/2022/PA.Jepara, marital disharmony was primarily triggered by the husband's inability to fulfill his financial obligations, leading to persistent disputes and eventual separation. This case demonstrates that economic hardship is not merely a background condition but a central factor that directly undermines marital stability. The inability to provide adequate financial support often generates tension, dissatisfaction, and emotional strain within the household, ultimately eroding trust and cooperation between spouses. This finding strongly aligns with William J. Goode's theory of family instability, which posits that economic pressure is one of the most significant determinants of marital disorganization. When economic needs are unmet, the likelihood of conflict increases, and the capacity for conflict resolution diminishes. Moreover, economic dependency may also intensify power imbalances within the relationship, placing women in a structurally disadvantaged position. In such circumstances, lawsuit divorce becomes a rational and necessary legal recourse for women seeking stability and justice. Thus, the empirical evidence not only supports theoretical assumptions but also highlights the lived realities of economic vulnerability in marital relationships.

Case No. 1107/Pdt.G/2021/PA.Jepara reveals a more severe manifestation of economic neglect, where the husband's failure to provide financial support resulted in prolonged separation lasting more than nine years. This extended period of abandonment reflects a deeper structural problem within marital relations, where the absence of economic responsibility is accompanied by emotional disengagement and lack of accountability. Such conditions place women in a highly vulnerable position, as they remain legally bound to a marriage that no longer functions socially or economically. From a feminist perspective, this situation can be interpreted as a form of structural injustice, where women bear the consequences of a dysfunctional marital system without adequate protection or resolution. The prolonged nature of the separation also indicates a failure of informal conflict resolution mechanisms, thereby necessitating formal legal intervention. In addition, this case highlights the phenomenon of "marital limbo," where women experience uncertainty regarding their legal and social status. This reinforces the argument that economic neglect is not only a material issue but also a factor that perpetuates gender inequality and dependency. Consequently, lawsuit divorce emerges as a critical mechanism through which women attempt to reclaim autonomy, dignity, and legal certainty in the face of prolonged neglect and abandonment.

In addition to economic factors, domestic violence (KDRT) emerges as a critical determinant of lawsuit divorce within the context of the Religious Court of Jepara. Case No. 300/Pdt.G/2021/PA.Jepara clearly illustrates how

repeated acts of physical and verbal abuse significantly contributed to the breakdown of the marital relationship. The wife in this case experienced ongoing violence that not only affected her physical condition but also her psychological well-being, ultimately forcing her to leave the marital home. This pattern reflects a broader empirical reality in which domestic violence becomes a turning point that shifts women from endurance to resistance. From a theoretical standpoint, this finding is consistent with Walker's cycle of violence theory, which explains that abusive relationships tend to follow a cyclical pattern consisting of tension-building, acute violence, and reconciliation phases. Over time, the repetition of this cycle erodes the victim's tolerance and increases the likelihood of exiting the relationship. In this context, lawsuit divorce becomes not merely a legal action but a survival mechanism for women seeking to escape harmful environments. Furthermore, this case also highlights the limitations of informal conflict resolution within households, where violence often escalates rather than diminishes. The inability of the marital relationship to provide safety and emotional security reinforces the necessity of formal legal intervention. Therefore, domestic violence should not be viewed as an isolated incident but as a structural issue that necessitates both legal protection and social awareness.

Moreover, several cases reveal the intersection of economic hardship and domestic violence as mutually reinforcing factors that contribute to marital dissolution. Case No. 1129/Pdt.G/2021/PA.Jepara demonstrates how financial neglect combined with verbal abuse creates a compounded burden for women within marriage. In this case, the husband not only failed to fulfill his economic responsibilities but also engaged in degrading and aggressive communication, which intensified the wife's emotional distress. This dual form of oppression reflects a condition in which economic dependency and psychological violence operate simultaneously, limiting women's ability to negotiate or improve their situation within the marriage. From a theoretical perspective, this finding aligns with Crenshaw's concept of intersectionality, which emphasizes that different forms of oppression such as gender inequality, economic marginalization, and violence interact and reinforce each other.⁹ Women in such situations experience layered vulnerabilities that cannot be understood through a single analytical lens. The intersection of these factors also explains why many women delay divorce, as they face both economic constraints and emotional manipulation. However, once these pressures reach an unbearable level, lawsuit divorce becomes the only viable option. This case also underscores the importance of understanding divorce as a process shaped by cumulative experiences rather than a single triggering event. Thus, the

⁹ Crenshaw, Kimberlé. 1989. "Demarginalizing the Intersection of Race and Sex." *University of Chicago Legal Forum* 1989(1): 139-167.

interaction between economic hardship and domestic violence highlights the complexity of marital breakdown and the need for multidimensional legal and social responses.

Another case, No. 87/Pdt.G/2022/PA.Jepara, further reinforces the pattern that lawsuit divorce is often the result of multiple overlapping factors rather than a single cause. In this case, the combination of physical violence, economic neglect, and abandonment created a highly unstable and unsustainable marital environment. The husband's failure to provide adequate financial support was accompanied by aggressive behavior and eventual disappearance, leaving the wife without both material and emotional support. This situation reflects what can be described as a "triple burden" experienced by women, where they must endure violence, economic insecurity, and social isolation simultaneously. Empirically, this case demonstrates that marital dissolution is frequently the outcome of prolonged accumulation of unresolved conflicts rather than sudden decisions. Theoretically, this supports socio-legal perspectives that emphasize the interaction between structural conditions and individual experiences in shaping legal actions. It also highlights the relevance of feminist legal theory, which argues that women's legal decisions are often shaped by systemic inequalities rather than purely individual choices. The presence of abandonment in this case further exacerbates the imbalance of power, as women are left to bear the consequences of marital failure alone. Consequently, lawsuit divorce becomes a necessary legal instrument to restore autonomy and legal certainty. These empirical findings collectively confirm that lawsuit divorce is rarely caused by a single factor but rather by a complex interplay of structural, economic, and interpersonal issues that accumulate over time.

Interview data with court officials further reinforce these findings by providing direct empirical insight into the underlying causes of lawsuit divorce in the Religious Court of Jepara. According to the court clerk, economic factors remain the primary driver of divorce cases, particularly due to husbands' unwillingness or inability to fulfill their financial responsibilities. In many cases, husbands are reported to be unemployed, underemployed, or reluctant to work, which results in inadequate financial support for the family. This condition often triggers continuous disputes, emotional tension, and ultimately marital breakdown. From a legal perspective, this finding highlights the centrality of economic responsibility as a core obligation in marriage, as emphasized in both Islamic law and Indonesian positive law. The failure to provide maintenance (*nafkah*) constitutes not only a social problem but also a legal violation that justifies divorce claims.¹⁰ Furthermore, the empirical evidence suggests that

¹⁰ Ramdani, Riyan, and Firda Nisa Syafitri, 'Penentuan Besaran Nafkah Madhiyah, Nafkah Iddah Dan Mut'Ah Dalam Perkara Perceraian Di Pengadilan Agama', *Jurnal Hukum Dan*

economic neglect is not merely incidental but systemic, reflecting broader socio-economic challenges and gendered expectations within households. In this context, the persistence of economic-related disputes underscores the importance of financial stability as a foundation for marital harmony. Therefore, the dominance of lawsuit divorce can be interpreted as a response to the failure of husbands to meet normative and legal expectations regarding economic provision. This reinforces the argument that economic justice is a fundamental pillar in sustaining marital relationships and preventing family disintegration.

From a feminist perspective, the dominance of lawsuit divorce can be understood as a manifestation of women's agency in responding to injustice within marital relationships. Women are no longer positioned as passive recipients of oppressive conditions but increasingly act as legal subjects who actively seek solutions through institutional mechanisms. This shift reflects a growing awareness of rights and access to justice, particularly among women who experience inequality, neglect, or abuse in marriage. Liberal feminist theory provides a useful framework for interpreting this phenomenon, as it emphasizes the importance of equality before the law, individual autonomy, and the capacity of women to make rational decisions regarding their own lives. In this context, lawsuit divorce represents a form of empowerment, where women utilize legal channels to assert their rights and challenge unjust marital conditions. Moreover, the increasing number of women initiating divorce indicates a transformation in gender relations, where traditional norms that position women as subordinate are gradually being contested. This development also reflects the role of legal institutions in facilitating access to justice and protecting individual rights. However, this agency should not be romanticized as purely emancipatory, as it often emerges from adverse circumstances. Nevertheless, it demonstrates that women are increasingly capable of navigating legal systems to achieve personal and social justice. Thus, lawsuit divorce can be interpreted as both a legal act and a socio-cultural transformation toward gender equality.

However, the empirical data also reveal that women's agency in filing for divorce is often shaped and constrained by structural inequalities embedded within patriarchal systems. Many women do not immediately seek divorce but endure prolonged periods of neglect, domestic violence, and abandonment before taking legal action. This delay reflects the complex interplay of economic dependency, cultural expectations, emotional attachment, and social stigma that limit women's choices. Radical feminist theory offers a critical lens to understand this condition by arguing that patriarchy operates as a system of structural domination that systematically disadvantages women in

both private and public spheres. Within the institution of marriage, this domination is manifested through unequal power relations, where men often control economic resources and decision-making authority. As a result, women's decisions to file for divorce are frequently reactive rather than proactive, emerging only after conditions become intolerable. This suggests that lawsuit divorce is not merely an expression of freedom but also a consequence of structural oppression that leaves women with limited alternatives. Furthermore, the persistence of such patterns indicates that legal equality alone is insufficient to address deeper socio-cultural inequalities. Women's agency, therefore, must be understood within the context of constrained choices shaped by systemic injustice. In this sense, lawsuit divorce represents both an act of resistance against patriarchal domination and a survival strategy in response to structural vulnerability.

A crucial empirical insight derived from the interviews is that many husbands deliberately avoid initiating talaq divorce in order to evade the financial obligations attached to it, particularly *iddah* maintenance, past livelihood claims, and other post-divorce responsibilities mandated under Islamic and Indonesian family law. This strategic avoidance reflects a calculated decision-making process in which economic considerations outweigh moral and legal responsibilities. In this context, rational choice theory becomes highly relevant, as it posits that individuals tend to act in ways that maximize benefits while minimizing costs.¹¹ By refraining from initiating talaq, husbands effectively transfer the burden of legal action onto their wives, who must then pursue lawsuit divorce through the Religious Court. This situation not only creates procedural inequality but also intensifies emotional strain for women, who must navigate complex legal processes while dealing with the psychological consequences of marital breakdown. Furthermore, this pattern indicates a structural imbalance in marital power relations, where men retain symbolic control over the marriage while simultaneously avoiding accountability. The empirical findings thus reveal that the dominance of lawsuit divorce is not merely incidental but is partly shaped by deliberate male strategies within the legal framework. This reinforces feminist critiques that legal mechanisms can be manipulated in ways that disadvantage women. Consequently, the legal system, while formally neutral, may inadvertently reproduce inequality in practice. Such dynamics highlight the need for stronger enforcement mechanisms and more equitable legal provisions to prevent the misuse of divorce procedures. Therefore, understanding this behavior is essential for addressing systemic injustices embedded within family law practices.

Interestingly, the findings also indicate that many women prioritize legal separation over financial compensation, revealing a significant shift in values

¹¹ Becker, Gary S. 1993. *A Treatise on the Family*. Cambridge: Harvard University Press.

and decision-making patterns among women in marital disputes. Based on interview data, several informants emphasized that women are often willing to relinquish their economic rights, including claims to maintenance and compensation, as long as they can achieve legal freedom from the marriage. This phenomenon reflects a transformation in how women perceive the purpose of divorce, moving away from material considerations toward psychological well-being and personal dignity. In this regard, Nussbaum's capability approach provides a useful analytical framework, as it emphasizes the importance of individual freedom, dignity, and the ability to make meaningful life choices.¹² Women's decisions to prioritize autonomy over financial gain suggest that they value the capability to live free from oppression more than economic security within a harmful relationship. However, this should not be interpreted solely as an indicator of empowerment. In many cases, this choice emerges from prolonged suffering, emotional exhaustion, and a lack of viable alternatives, which limit women's bargaining power within marriage. Thus, while the decision may appear voluntary, it is often shaped by structural constraints and unequal power relations. This finding highlights the complexity of women's agency, which operates within restrictive social and economic conditions. It also challenges conventional assumptions that women primarily seek financial security in divorce. Ultimately, this pattern underscores the importance of recognizing non-material dimensions of justice, including dignity, safety, and psychological well-being, in evaluating divorce outcomes.

At the same time, the phenomenon of women being "left hanging" without a clear marital status highlights a significant gap between legal norms and social realities in the implementation of family law. Empirical evidence shows that many women remain legally married for extended periods despite being effectively abandoned by their husbands, with no financial support or emotional connection.¹³ This condition creates a form of legal uncertainty that places women in a vulnerable and disadvantaged position, both socially and economically. Although the legal system formally provides mechanisms for divorce through the Religious Court, its practical implementation does not always guarantee timely or effective resolution of such cases. This discrepancy reflects what socio-legal scholars describe as the distinction between "law in books" and "law in action," where the existence of legal rules does not necessarily translate into their effective enforcement in real-life situations. In this context, Friedman's concept of legal culture is particularly relevant, as societal attitudes, power relations, and institutional practices influence how

¹² Nussbaum, Martha C. 2000. *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press.

¹³ Fauziah, Atika Suri Nur, Aziizah Nur Fauzi, and Umma Ainayah, 'Analisis Maraknya Perceraian Pada Masa Covid 19', *Mizan: Journal of Islamic Law*, 4.2 (2020), 181-92 <<https://doi.org/10.32507/mizan.v4i2.838>>

the law operates in practice.¹⁴ Women who are “left hanging” often face social stigma, economic insecurity, and limited access to legal resources, which further complicate their situation. This condition also reflects deeper patriarchal structures that allow men to evade responsibility without immediate legal consequences. As a result, the legal system may inadvertently sustain rather than resolve inequality. Therefore, addressing this issue requires not only formal legal reform but also improvements in institutional responsiveness and access to justice. Bridging the gap between normative law and lived experience is essential to ensure that legal protections are meaningful and effective for women.¹⁵

Cultural factors also play a significant role in shaping marital dynamics, particularly in the context of lawsuit divorce in Jepara. Women often endure prolonged suffering within marriage due to deeply rooted social expectations that emphasize patience, obedience, and family preservation as core feminine virtues. In many cases, societal norms place moral responsibility on women to maintain household harmony, regardless of the level of conflict or hardship they experience.¹⁶ Family pressure also contributes substantially, as women are frequently encouraged by extended family members to remain in the marriage for the sake of reputation and social stability. Additionally, concern for children becomes a major consideration, as women tend to prioritize the psychological well-being and future of their children over their own personal suffering. This situation often delays the decision to pursue divorce, even in cases involving severe emotional or physical distress. Such findings strongly align with gender role theory, which posits that women are socially conditioned to internalize caregiving roles and prioritize relational stability over individual autonomy. Consequently, women’s decisions to file for divorce are rarely immediate but are instead the result of prolonged negotiation between personal suffering and social expectations. This highlights that divorce, particularly lawsuit divorce, is not merely a personal decision but is deeply embedded in cultural and social structures that shape women’s agency.

Overall, the dominance of lawsuit divorce in Jepara reflects a complex interplay between economic hardship, domestic violence, legal inequality, and deeply embedded cultural norms. These factors do not operate independently but are interconnected in ways that reinforce women’s vulnerability within marital relationships. Economic hardship, for instance, often exacerbates

¹⁴ Friedman, Lawrence M. 1975. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation.

¹⁵ Ghoni, Abdul, ‘Putusnya Perkawinan Karena Li’an Dalam Pasal 162 Kompilasi Hukum Islam (Khi) Perspektif Maqashid Syari’Ah’, *Al-Ahwal Al-Syakhsiyyah: Jurnal Hukum Keluarga Dan Peradilan Islam*, 2.2 (2022), 147-62 <<https://doi.org/10.15575/as.v2i2.14329>>

¹⁶ Hasanah, Uswatun, ‘Pengaruh Perceraian Orangtua Bagi Psikologis Anak’, *AGENDA: Jurnal Analisis Gender Dan Agama*, 2.1 (2020), 18 <<https://doi.org/10.31958/agenda.v2i1.1983>>

tensions that can escalate into domestic violence, while legal inequality allows men to delay or avoid divorce obligations, further disadvantaging women.¹⁷ Cultural norms then function to normalize women's endurance of such conditions, creating a cycle that is difficult to break. The integration of empirical data from court decisions and in-depth interviews clearly demonstrates that lawsuit divorce is not merely a legal phenomenon driven by procedural mechanisms, but rather a manifestation of broader structural issues in gender relations. These findings indicate that the legal system is often utilized as a last resort by women after all social, emotional, and economic coping mechanisms have been exhausted. From a socio-legal perspective, this underscores the gap between formal legal provisions and lived realities, where the law provides solutions but does not fully address root causes.¹⁸ Therefore, the increasing trend of lawsuit divorce should be understood as both a symptom of systemic inequality and a form of resistance by women seeking justice. This complexity calls for a more holistic approach that integrates legal reform with socio-cultural transformation to achieve substantive gender equality.

No	Key Factor	Empirical Description in Jepara	Concrete Indicators (Cases/Data)	Theoretical Perspective	Socio-Legal Analysis	Implications
1	Increasing women's legal awareness	A significant rise in lawsuit divorce initiated by wives compared to talaq divorce	Data 2021-2022: 1,576 → 1,829 cases; majority filed by women	Lawrence M. Friedman (Legal System Theory)	Transformation occurs mainly in legal culture, where women actively assert their rights	Strengthening access to justice and shifting gender relations
2	Economic neglect (nafkah failure)	Husband's inability or unwillingness to provide financial support triggers marital conflict	Case No. 2236/Pdt.G/2022/PA.Jepara	William J. Goode	Economic pressure undermines trust and stability within marriage	Economic justice is central to marital sustainability
3	Long-term abandonment	Wives are left without financial and emotional support for extended periods	Case No. 1107/Pdt.G/2021/PA.Jepara (over 9 years abandonment)	Radical Feminist Perspective	Women experience "marital limbo" due to lack of legal resolution	Need for faster and more responsive legal protection

¹⁷ Hidayat, Riyan Erwin, 'Pendapat Imam Mazhab Tentang Hak Istri Pada Masa Iddah Talak Ba'in Dan Relevansinya Dengan Undang-Undang Perkawinan Di Indonesia', *Istinbath: Jurnal Hukum*, 15.1 (2018), 145 <<https://doi.org/10.32332/istinbath.v15i1.1123>>

¹⁸ Ilaa, Dhiyaa Thurfa, 'Feminisme Dan Kebebasan Perempuan Indonesia Dalam Filosofi', *Jurnal Filsafat Indonesia*, 4.3 (2021), 211-16 <<https://doi.org/10.23887/jfi.v4i3.31115>>

4	Domestic violence (KDRT)	Physical and verbal abuse becomes a turning point leading to divorce	Case No. 300/Pdt.G/2021/PA.Jepara	Lenore Walker	Violence follows a cyclical pattern, pushing women to exit harmful relationships	Divorce functions as a survival mechanism
5	Intersection of oppression	Economic hardship and violence occur simultaneously	Case No. 1129/Pdt.G/2021/PA.Jepara	Kimberlé Crenshaw	Women face layered vulnerabilities (economic, psychological, structural)	Requires multidimensional policy and legal response
6	Triple burden condition	Women experience violence, poverty, and abandonment concurrently	Case No. 87/Pdt.G/2022/PA.Jepara	Feminist Legal Theory	Divorce results from cumulative and prolonged conflicts	Importance of early intervention in marital disputes
7	Strategic avoidance of talaq obligations	Husbands avoid talaq to escape financial responsibilities after divorce	Interview findings (court officials)	Rational Choice Theory	Legal mechanisms are strategically used to minimize male obligations	Indicates procedural inequality within divorce system
8	Prioritization of legal freedom over financial rights	Women prefer legal separation even without claiming economic rights	Interview data	Martha Nussbaum	Justice is understood as dignity, autonomy, and psychological well-being	Expands concept of justice beyond material compensation
9	Cultural and social pressure	Women endure suffering due to norms emphasizing patience and family preservation	Social stigma, family pressure, concern for children	Gender Role Theory	Patriarchal norms delay women's decision to seek divorce	Need for cultural transformation and gender awareness
10	Gap between law in books and law in action	Women remain legally married despite abandonment and dysfunction	Empirical findings on unresolved marital status	Socio-Legal Theory	Legal norms are not always effectively implemented in practice	Necessitates institutional reform and improved legal access

Feminist Perspectives on the Dominance of Lawsuit Divorce

The findings of this study demonstrate that feminist perspectives provide a crucial analytical framework in understanding the dominance of lawsuit divorce (*cerai gugat*) in Jepara Regency during 2021-2022. This perspective enables a deeper interpretation beyond merely legal or statistical explanations by situating divorce within broader structures of gender relations and power imbalance. Empirical data derived from interviews with feminist figures reveal that the increasing number of lawsuit divorce cases is not simply a legal phenomenon but rather reflects persistent structural inequalities embedded within marital relationships. These inequalities are manifested in various forms, including economic neglect, domestic violence, and the strategic behavior of husbands in avoiding legal and financial responsibilities. From a feminist legal standpoint, such conditions indicate that marriage is not always a neutral institution but can function as a site of domination and control.¹⁹ The dominance of lawsuit divorce thus becomes an indicator of women's responses to systemic injustice rather than merely a rise in marital breakdown. Furthermore, this phenomenon illustrates how legal mechanisms are utilized by women as a means of resistance against unequal power structures. In this context, the Religious Court serves not only as a dispute resolution forum but also as an arena where gendered inequalities are negotiated. The increasing number of cases suggests a shift in women's legal consciousness and awareness of their rights. However, it also reveals the limitations of the legal system in addressing deeper social inequalities. Therefore, feminist perspectives are essential in uncovering the hidden dimensions of this phenomenon. Ultimately, the dominance of lawsuit divorce reflects a complex interaction between law, society, and gender relations.

One of the most significant empirical findings of this study is the phenomenon of women being left in a prolonged state of uncertainty within marriage. This condition, often described as "hanging status," reflects a situation in which women remain legally married but are effectively abandoned by their husbands.²⁰ According to one informant, many women are left for years without receiving financial or emotional support, while their husbands refuse to formally initiate divorce proceedings. This creates a condition of legal and social limbo that places women in a highly vulnerable position. From a feminist perspective, this phenomenon illustrates a form of structural violence, where power is exercised through neglect rather than direct coercion. The concept of

¹⁹ Jayanthi, Evi Tri. 2009. "Factors Causing Domestic Violence in Household." *Dimensia* 3(2): 33-50.

²⁰ Junawaroh, 'Wanita Hamil Di Luar Nikah Perspektif Hukum Islam (Studi Hukum Menikahi, Mentalaq, Dan Masa Iddah)', *Syakhsia : Jurnal Hukum Perdata Islam*, Vol. 21.2 (2021), h. 331-356 <<http://jurnal.uinbanten.ac.id/index.php/syakhsia/article/view/3847>>

“marital suspension,” as proposed by Cott (2000), aptly describes this condition, where women are bound by legal status but deprived of substantive marital rights. In such cases, the legal system unintentionally enables the continuation of inequality by allowing men to retain control over marital status. Women, on the other hand, are forced to take legal action to reclaim their autonomy and certainty. This imbalance highlights the asymmetrical distribution of power within marriage, particularly in relation to legal authority and economic responsibility.²¹ Moreover, the prolonged uncertainty experienced by women often leads to psychological distress and social stigma. This condition further reinforces their marginal position within both the family and society. Therefore, lawsuit divorce emerges not only as a legal remedy but also as a necessary strategy for survival. In this sense, women’s decision to file for divorce reflects both agency and constraint within a structurally unequal system.

This phenomenon is closely related to men’s reluctance to initiate talaq divorce within the legal and socio-economic context of marital dissolution. As revealed in the interviews, many husbands deliberately avoid initiating talaq divorce because it entails financial obligations, including *iddah* maintenance, past livelihood (*nafkah madhiyah*), and other post-divorce compensations mandated by Islamic and Indonesian family law. These obligations are often perceived as burdensome, particularly for men who are already economically unstable or unwilling to assume financial responsibility.²² Consequently, instead of formally ending the marriage, some husbands choose to maintain the marital bond in a passive and neglectful manner, without fulfilling their duties as providers or partners. This situation creates a prolonged state of uncertainty for women, who remain legally married but are effectively abandoned both economically and emotionally. From an analytical standpoint, this behavior can be understood through rational choice theory, which posits that individuals make decisions based on a calculation of costs and benefits.²³ In this case, avoiding talaq divorce becomes a strategic choice to minimize financial loss while maintaining control over the marital relationship. However, such behavior reflects not merely individual decision-making, but also broader structural incentives embedded within the legal system that may unintentionally enable neglectful marital practices.

²¹ Lubis, Maulana Arafat, Nashran Azizan, and Erna Ikawati, ‘Posisi Perempuan Dalam Hukum Keluarga Islam Di Indonesia’, *Jurnal Kajian Gender Dan Anak*, 4.1 (2020), 63-82 <jurnal.iain-padangsidempuan.ac.id/index.php/JurnalGender>

²² Putra, I Gusti Agung Ketut Bagus Wira Adi, Ida Ayu Putu Widiati, and Ni Made Puspasutari Uj, ‘Gugatan Tidak Dapat Diterima (Niet Ontvankelijke Verklaard) Dalam Gugatan Cerai Gugat Di Pengadilan Agama Badung’, *Jurnal Konstruksi Hukum*, 1.2 (2020), 305-9 <<https://doi.org/10.22225/jkh.2.1.2565.305-309>>

²³ Becker, Gary S. 1993. *A Treatise on the Family*. Cambridge: Harvard University Press.

From a feminist legal perspective, this practice clearly reflects structural gender injustice embedded within both legal norms and social practices. Women are systematically placed in a reactive and disadvantaged position, where they must initiate legal proceedings often at their own emotional, financial, and procedural expense to obtain basic rights such as marital dissolution and personal autonomy. Meanwhile, men retain disproportionate control over the formal status of the marriage, despite failing to fulfill their legal and moral obligations as husbands. This imbalance highlights how legal frameworks, while formally neutral, may operate in ways that reproduce unequal power relations between men and women. Such conditions strongly resonate with MacKinnon's theory of dominance feminism, which argues that law is not inherently objective but is shaped by and reinforces male dominance within society.²⁴ In this context, the legal structure surrounding divorce may inadvertently privilege male interests by allowing men to delay or avoid formal separation without immediate consequences. As a result, women's access to justice becomes conditional upon their ability to navigate complex legal procedures, thereby reinforcing systemic inequality. This situation underscores the need for a more gender-responsive legal framework that not only ensures formal equality but also addresses substantive inequalities in marital relations.

Another important empirical finding is that many women prioritize legal separation over financial compensation when deciding to pursue lawsuit divorce. Interview data indicate that women are often willing to relinquish their economic rights, including claims for post-divorce maintenance, as long as they can legally terminate the marital relationship.²⁵ This phenomenon reflects a significant shift in women's orientation toward autonomy, dignity, and psychological well-being, rather than purely material considerations. In this context, divorce is not merely understood as a legal act but as a form of personal liberation from oppressive or harmful marital conditions. Such behavior aligns with the principles of liberal feminist theory, which emphasizes individual agency, freedom of choice, and equal access to legal mechanisms as essential components of gender justice.²⁶ Women's decisions to initiate divorce, even without financial gain, demonstrate their active role in negotiating their own life trajectories. Moreover, this shift challenges traditional assumptions that women are primarily economically dependent on men and therefore reluctant to end marriage. Instead, the findings suggest that women increasingly value self-determination and emotional security over economic

²⁴ MacKinnon, Catharine A. 1989. *Toward a Feminist Theory of the State*. Cambridge: Harvard University Press.

²⁵ Menski, Werner. 2006. *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*. Cambridge: Cambridge University Press.

²⁶ Nussbaum, Martha C. 2000. *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press.

attachment. This indicates a transformation in gender consciousness, where marriage is no longer perceived as an irreversible institution but as a conditional relationship that must fulfill mutual rights and obligations. Consequently, lawsuit divorce becomes an instrument through which women assert control over their personal and legal identities.²⁷

However, this decision cannot be understood solely as a manifestation of empowerment or agency. A deeper analysis reveals that women's willingness to forgo financial claims is often shaped by prolonged suffering, emotional exhaustion, and structural limitations that constrain their available choices. Many women endure years of neglect, abandonment, or abuse before finally deciding to file for divorce, suggesting that their decisions are not made freely but under significant pressure. This condition reflects what Amartya Sen (1999) conceptualizes as "adaptive preferences," where individuals adjust their expectations and desires in response to persistent inequality and restricted opportunities. In such situations, women may internalize their disadvantaged position and perceive minimal outcomes such as merely obtaining legal separation as sufficient or desirable. This adaptive process is particularly evident in contexts where legal awareness, economic independence, and social support are limited. As a result, women may choose to abandon financial rights not because they are unimportant, but because the pursuit of such rights is perceived as difficult, time-consuming, or emotionally burdensome.²⁸ Furthermore, social stigma surrounding divorce may also influence women's decisions to resolve their marital status as quickly as possible, even at the cost of economic loss. Therefore, while lawsuit divorce may appear as a form of empowerment on the surface, it simultaneously reveals underlying structural inequalities that limit women's bargaining power. This duality underscores the importance of viewing women's decisions within their broader socio-economic and cultural context rather than interpreting them in isolation.

Infidelity also emerges as a significant and recurring factor contributing to the dominance of lawsuit divorce in Jepara. According to interview data, many husbands engage in extramarital relationships while simultaneously refusing to formally dissolve the marriage, thereby placing women in a prolonged state of legal and emotional uncertainty. This situation creates what can be described as a dual injustice: on one hand, women experience emotional betrayal due to the husband's unfaithfulness, and on the other hand, they face legal insecurity because the marriage is not formally terminated. In many cases, husbands avoid divorce to evade financial obligations, further exacerbating

²⁷ Nussbaum, Martha C. 2000. *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press.

²⁸ Ramadhani, Salsabila Rizky, and Nunung Nurwati, 'Dampak Pandemi Covid-19 Terhadap Angka Perceraian', *Jurnal Penelitian Dan Pengabdian Kepada Masyarakat (JPPM)*, 2.1 (2021), 88 <<https://doi.org/10.24198/jppm.v2i1.33441>>

women's vulnerability. Feminist theory interprets this phenomenon as a manifestation of patriarchal control, where men exercise authority over both the continuation and dissolution of marriage, often to the detriment of women.²⁹ Such control reinforces gender inequality by limiting women's autonomy in determining their marital status and life choices. Moreover, the normalization of infidelity in certain contexts reflects broader social tolerance toward male privilege, which further marginalizes women's experiences and rights. The refusal of husbands to initiate divorce despite engaging in extramarital relationships also highlights the asymmetry of power within marriage, where women are compelled to take legal action to resolve situations created by men. Consequently, lawsuit divorce becomes not only a legal remedy but also a form of resistance against patriarchal domination. This finding underscores the need to address infidelity not merely as a personal moral issue but as a structural problem embedded within unequal gender relations.

In addition, the empirical data highlight the widespread phenomenon of women whose marital status becomes "uncertain" or "suspended." Many women remain legally married but are effectively abandoned by their husbands, without receiving financial support, emotional care, or clear communication regarding the continuation of the marriage.³⁰ This condition creates a form of legal and social ambiguity in which women are bound by marital status but deprived of the substantive rights that should accompany it. As a result, women often experience prolonged vulnerability, both economically and psychologically, due to the absence of legal certainty. In many cases, this "suspended" status persists for years, leaving women without the ability to rebuild their personal lives or pursue new relationships. This phenomenon illustrates a significant disconnect between formal legal provisions and actual social practices in marital relations. Although the legal system provides mechanisms for divorce, such as litigation through the Religious Court, these mechanisms are not always effectively utilized or accessible in a timely manner. Consequently, women are trapped in a condition that is neither fully married nor legally divorced. This situation underscores the gap between law in books and law in action, a key concern in socio-legal studies. It strongly supports Friedman's concept of legal culture, which emphasizes that the effectiveness of legal rules depends on how they are interpreted and practiced within society.³¹

Domestic violence (KDRT) is another critical factor identified in this study as a major driver of lawsuit divorce. Empirical findings from interviews reveal that many women endure both physical and psychological abuse over

²⁹ Walby, Sylvia. 1990. *Theorizing Patriarchy*. Oxford: Basil Blackwell.

³⁰ Sen, Amartya. 1999. *Development as Freedom*. Oxford: Oxford University Press.

³¹ Friedman, Lawrence M. 1975. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation.

extended periods before ultimately deciding to file for divorce. Forms of violence reported include physical assault, verbal abuse, emotional manipulation, and neglect, all of which contribute to the deterioration of marital relationships. In several cases, women remain in abusive marriages for years due to emotional attachment, fear of social stigma, economic dependency, or concern for their children's well-being. This prolonged endurance reflects the complex and deeply rooted nature of domestic violence within the family structure. Victims often face significant barriers in leaving abusive relationships, including limited access to support systems and societal pressure to maintain family unity. This finding is consistent with Walker's cycle of violence theory, which explains that abusive relationships typically follow a recurring pattern of tension building, acute violence, and reconciliation.³² This cyclical nature makes it difficult for victims to break free, as moments of reconciliation may create false hope for change. As a result, divorce becomes a last resort after repeated exposure to violence and the realization that the situation is unlikely to improve.

The data also show that women tend to demonstrate greater resilience in maintaining marriage compared to men, particularly in the context of prolonged conflict or hardship. Informants emphasized that women often consider a wide range of factors before making the decision to divorce, including the stability of the family, the future of their children, economic survival, and the potential social consequences of separation. This multi-layered consideration reflects the heavy social and emotional burden placed on women within marital relationships. In many cultural contexts, including in Jepara, women are expected to preserve family harmony and endure difficulties as part of their marital role. As a result, women may delay divorce even when facing serious issues such as neglect or abuse. This behavior illustrates the internalization of gender norms that prioritize family cohesion over individual well-being. The tendency of women to maintain marriage despite adverse conditions supports gender role theory, which suggests that women are socially conditioned to adopt nurturing and self-sacrificing roles within the family.³³ Such social expectations not only shape women's decisions but also reinforce unequal power dynamics within marriage. Consequently, the decision to file for divorce often represents a culmination of prolonged endurance rather than an impulsive or immediate reaction.

Economic factors remain central in explaining the dominance of lawsuit divorce. Another feminist informant emphasized that many husbands fail to fulfill their financial responsibilities due to unemployment or unwillingness to

³² Walker, Lenore E. 1979. *The Battered Woman*. New York: Harper & Row.

³³ Eagly, Alice H. 1987. *Sex Differences in Social Behavior: A Social-Role Interpretation*. Hillsdale: Lawrence Erlbaum Associates.

work. This leads to persistent conflict and ultimately divorce. This finding supports Goode's theory that economic stress is a major cause of family instability.³⁴ From an intersectional perspective, the dominance of lawsuit divorce reflects overlapping forms of oppression, including economic inequality, gender discrimination, and domestic violence. As proposed by Crenshaw (1989), these intersecting factors create compounded vulnerabilities for women, limiting their ability to make independent decisions.

Interestingly, the findings also reveal that some women initially resist divorce despite experiencing severe forms of abuse, including both physical violence and psychological pressure. This resistance cannot be simply interpreted as passivity, but rather reflects the complex interplay of cultural, emotional, and religious values that shape women's decision-making processes within marriage. In many cases, women perceive marriage as a sacred and enduring institution that should be preserved at all costs, even in the face of suffering. Emotional attachment to spouses, concern for children's well-being, and fear of social stigma further contribute to this reluctance to pursue divorce. Additionally, religious interpretations that emphasize patience (*sabr*) and endurance often reinforce women's decisions to remain in harmful relationships longer than they otherwise might. This situation illustrates that legal rights alone are insufficient to explain women's behavior, as their actions are deeply embedded in broader socio-cultural contexts. From a socio-legal perspective, this phenomenon demonstrates the importance of examining how law interacts with lived realities rather than functioning as an abstract system. As argued by Menski (2006), law must be understood within a pluralistic framework where legal norms coexist with cultural practices and personal beliefs. Therefore, women's delayed decisions to file for divorce should be seen as a reflection of structural and cultural constraints rather than individual weakness or lack of awareness.

The increasing prevalence of lawsuit divorce can therefore be interpreted as both a form of resistance and a survival strategy employed by women in response to oppressive marital conditions. On one hand, it represents a conscious act of resistance against patriarchal structures that perpetuate inequality and limit women's autonomy within marriage. By initiating legal proceedings, women assert their agency and challenge traditional norms that position them as subordinate to their husbands. On the other hand, lawsuit divorce also functions as a survival mechanism, enabling women to escape from situations characterized by violence, neglect, and emotional distress. In many cases, filing for divorce is not merely a choice but a necessity for preserving personal safety and psychological well-being. This dual function highlights the

³⁴ Goode, William J. 1971. "World Revolution and Family Patterns." New York: Free Press.

transformative potential of legal institutions when accessed by marginalized groups. However, it also reveals the limitations of the legal system, as women often resort to divorce only after exhausting all other options. Feminist legal theory provides a useful framework for understanding this dynamic, as it conceptualizes law as both an instrument of domination and a means of emancipation. As Smart (1989) argues, law can simultaneously reinforce patriarchal structures while also offering pathways for resistance and empowerment. Thus, lawsuit divorce should be understood as a complex legal and social phenomenon that embodies both constraint and agency.

Moreover, the findings highlight the urgent need for a more gender-sensitive legal framework that is capable of addressing the structural inequalities faced by women within marriage. While the existing legal system provides formal mechanisms for divorce, it often fails to fully capture and respond to the lived experiences of women, particularly in cases involving prolonged abandonment and economic neglect. Many women are forced to navigate legal processes that do not adequately recognize the cumulative impact of emotional, financial, and physical harm. This gap between normative legal provisions and empirical realities reflects a broader issue within socio-legal studies, namely the disconnect between “law in books” and “law in action.” A gender-sensitive legal framework should not only ensure procedural access to justice but also incorporate substantive protections that address power imbalances within marital relationships. This includes stronger enforcement of financial obligations, greater protection against domestic violence, and more responsive judicial practices that take into account women’s socio-economic vulnerabilities.³⁵ Furthermore, legal reform must be accompanied by broader social and institutional changes, including public awareness, community support systems, and gender equality initiatives. Without such comprehensive measures, the legal system risks perpetuating the very inequalities it seeks to resolve. Therefore, the development of a more inclusive and responsive legal framework is essential for achieving meaningful justice for women in the context of marriage and divorce.

No.	Key Theme	Core Finding	Main Analysis
1	Lawsuit divorce as a response to gender inequality	The dominance of lawsuit divorce reflects women’s increasing use of legal mechanisms to challenge injustice in marriage	Lawsuit divorce represents women’s agency and legal empowerment

³⁵ Tegar Pahlevi, Andika, Eni Zulaiha, and Yeni Huriani, ‘Mazhab Feminisme Dan Pengaruhnya Di Indonesia’, *Definisi: Jurnal Agama Dan Sosial Humaniora*, 1.2 (2020), 103-12 <<https://journal.uinsgd.ac.id/index.php/definisi/index>&Pahlevietal.<http://dx.doi.org/10.15577/djash.v1i2.19597>>

2	Abandonment and “hanging status”	Many women are left without financial support and legal certainty while still being formally married	This condition creates economic, social, and psychological vulnerability
3	Strategic avoidance by husbands	Husbands avoid initiating talaq to escape post-divorce financial obligations	Legal procedures can be strategically manipulated, disadvantaging women
4	Violence, infidelity, and economic hardship	Domestic violence, infidelity, and financial neglect are major drivers of marital breakdown	These factors are interconnected and intensify women’s suffering
5	Need for gender-responsive legal reform	The legal system has not fully addressed women’s lived experiences and structural inequality	There is a need for more substantive, accessible, and gender-sensitive legal protection

Conclusion

This study concludes that the dominance of lawsuit divorce (*cerai gugat*) in the Religious Court of Jepara during 2021-2022 reflects a significant shift in marital dynamics, where women increasingly take an active role in initiating divorce. This phenomenon is primarily driven by economic hardship, domestic violence, abandonment, and the failure of husbands to fulfill their responsibilities. Among these factors, economic neglect and domestic violence emerge as the most dominant causes, indicating that material and psychological insecurity are central triggers of marital breakdown. From a feminist perspective, the prevalence of lawsuit divorce represents both women’s agency and structural inequality. On one hand, it demonstrates women’s growing awareness of their rights and their willingness to utilize legal mechanisms to seek justice and escape oppressive relationships. On the other hand, it reveals persistent gender imbalances within marriage, where women are often placed in disadvantaged positions due to economic dependency, legal asymmetry, and patriarchal norms. Furthermore, the findings highlight that lawsuit divorce is not merely a legal procedure but also a social response to unresolved structural problems. Many women resort to divorce as a last option after experiencing prolonged neglect, violence, or emotional distress. This indicates that the legal system, while providing access to justice, has not fully addressed the root causes of inequality within marital relationships. Therefore, this study emphasizes the need for a more gender-sensitive legal framework that not only facilitates divorce procedures but also ensures substantive justice for women. Efforts to reduce the high rate of lawsuit divorce should focus on strengthening economic responsibility, preventing domestic violence, and promoting more equitable gender relations within the family. In this context, law should function not only as a mechanism for dispute resolution but also as an instrument for achieving social justice and gender equality.

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